

## STATE OF MINNESOTA

## EIGHTY-SEVENTH SESSION — 2012

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 NINETY-FIRST DAY

SAINT PAUL, MINNESOTA, THURSDAY, MARCH 22, 2012

The House of Representatives convened at 3:00 p.m. and was called to order by Kurt Zellers, Speaker of the House.

Prayer was offered by Father Paul Kammen, Churches of St. Joseph and St. Peter, Delano, 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:

|              |            |           |             |              |              |
|--------------|------------|-----------|-------------|--------------|--------------|
| Allen        | Davnie     | Hancock   | Laine       | Morrow       | Scalze       |
| Anderson, B. | Dean       | Hansen    | Lanning     | Mullery      | Schomacker   |
| Anderson, D. | Dettmer    | Hausman   | Leidiger    | Murdock      | Scott        |
| Anderson, P. | Dill       | Hilstrom  | LeMieur     | Murphy, E.   | Shimanski    |
| Anderson, S. | Dittrich   | Hilty     | Lenczewski  | Murphy, M.   | Simon        |
| Anzelc       | Doepke     | Holberg   | Lesch       | Murray       | Slawik       |
| Atkins       | Downey     | Hoppe     | Liebling    | Myhra        | Slocum       |
| Banaian      | Drazkowski | Hornstein | Lillie      | Nelson       | Smith        |
| Barrett      | Eken       | Hortman   | Loeffler    | Nornes       | Stensrud     |
| Beard        | Erickson   | Hosch     | Lohmer      | Norton       | Swedzinski   |
| Benson, J.   | Fabian     | Howes     | Loon        | O'Driscoll   | Thissen      |
| Benson, M.   | Falk       | Huntley   | Mack        | Paymar       | Torkelson    |
| Bills        | Franson    | Johnson   | Mahoney     | Pelowski     | Urdahl       |
| Brynaert     | Fritz      | Kahn      | Mariani     | Peppin       | Vogel        |
| Buesgens     | Garofalo   | Kath      | Marquart    | Persell      | Wagenius     |
| Carlson      | Gauthier   | Kelly     | Mazorol     | Petersen, B. | Ward         |
| Champion     | Gottwalt   | Kieffer   | McDonald    | Peterson, S. | Wardlow      |
| Clark        | Greiling   | Kiel      | McElpatrick | Poppe        | Westrom      |
| Cornish      | Gruenhagen | Kiffmeyer | McFarlane   | Quam         | Winkler      |
| Crawford     | Gunther    | Knuth     | McNamara    | Rukavina     | Woodard      |
| Daudt        | Hackbarth  | Koenen    | Melin       | Runbeck      | Spk. Zellers |
| Dauids       | Hamilton   | Kriesel   | Moran       | Sanders      |              |

A quorum was present.

Greene and Tillberry were excused.

Abeler was excused until 3:15 p.m.

The Chief Clerk proceeded to read the Journal of the preceding day. There being no objection, further reading of the Journal was dispensed with and the Journal was approved as corrected by the Chief Clerk.

## REPORTS OF STANDING COMMITTEES AND DIVISIONS

Beard from the Committee on Transportation Policy and Finance to which was referred:

H. F. No. 1175, A bill for an act relating to motor vehicles; authorizing additional deputy registrar of motor vehicles for Scott County.

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

The report was adopted.

Gottwalt from the Committee on Health and Human Services Reform to which was referred:

H. F. No. 1683, A bill for an act relating to human services; creating an exception to the foster care licensing moratorium; amending Minnesota Statutes 2010, section 245A.03, subdivision 7.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. **FOSTER CARE FOR INDIVIDUALS WITH AUTISM.**

The commissioner of human services shall identify and coordinate with one or more counties that agree to issue a foster care license and authorize funding for people with autism who are currently receiving home and community-based services under Minnesota Statutes, section 256B.092 or 256B.49. Children eligible under this section must be in an out-of-home placement approved by the lead agency that has legal responsibility for the placement. Nothing in this section must be construed as restricting an individual's choice of provider. The commissioner will assist the interested county or counties with obtaining necessary capacity within the moratorium under Minnesota Statutes, section 245A.03, subdivision 7. The commissioner shall coordinate with the interested counties and issue a request for information to identify providers who have the training and skills to meet the needs of the individuals identified in this section.

Sec. 2. **DIRECTION TO COMMISSIONER.**

The commissioner of human services shall develop an optional certification for providers of home and community-based services waivers under Minnesota Statutes, section 256B.092 or 256B.49, that demonstrates competency in working with individuals with autism. Recommended language and an implementation plan must be provided to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance by February 15, 2013, as part of the Quality Outcome Standards required under Laws 2010, chapter 352, article 1, section 24."

Delete the title and insert:

"A bill for an act relating to human services; establishing specialized foster care for people with autism."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Health and Human Services Finance.

The report was adopted.

Howes from the Committee on Capital Investment to which was referred:

H. F. No. 1752, A bill for an act relating to capital investment; appropriating money for renovation of the Minnesota Telecenter Building in St. Paul; authorizing the sale and issuance of state bonds.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Westrom from the Committee on Civil Law to which was referred:

H. F. No. 1967, A bill for an act relating to human services; modifying provisions related to children and family services; providing for child safety and permanency reform including adoptions under guardianship of the commissioner; modifying statutory provisions related to child support; modifying child care provisions; modifying fees; modifying MFIP provisions; providing criminal penalties; making technical changes; amending Minnesota Statutes 2010, sections 13.46, subdivision 2; 13.461, subdivision 17; 13.465, by adding a subdivision; 119B.09, subdivision 7; 119B.12, subdivisions 1, 2; 119B.125, subdivisions 1a, 2, 6; 119B.13, subdivision 6; 145.902, subdivisions 1, 2, 3; 256.998, subdivisions 1, 5; 256J.08, subdivision 11; 256J.24, subdivisions 2, 5; 256J.32, subdivision 6; 256J.621; 256J.68, subdivision 7; 256J.95, subdivision 3; 257.01; 257.75, subdivision 7; 259.22, subdivision 2; 259.23, subdivision 1; 259.24, subdivisions 1, 3, 5, 6a, 7; 259.29, subdivision 2; 259.69; 259.73; 260.012; 260.771, subdivision 3; 260C.001; 260C.007, subdivision 4, by adding subdivisions; 260C.101, subdivision 2; 260C.150, subdivision 1; 260C.157, subdivision 1; 260C.163, subdivisions 1, 4; 260C.178, subdivisions 1, 7; 260C.193, subdivisions 3, 6; 260C.201, subdivisions 2, 10, 11a; 260C.212, subdivisions 1, 2, 5, 7; 260C.215, subdivisions 4, 6; 260C.217; 260C.301, subdivisions 1, 8; 260C.317, subdivisions 3, 4; 260C.325, subdivisions 1, 3, 4; 260C.328; 260C.451; 260D.08; 518A.40, subdivision 4; 518C.205; 541.04; 548.09, subdivision 1; 609.3785; 626.556, subdivisions 2, 10, 10e, 10f, 10i, 10k, 11; Minnesota Statutes 2011 Supplement, sections 119B.13, subdivision 1; 256.01, subdivision 14b; proposing coding for new law in Minnesota Statutes, chapters 260C; 611; proposing coding for new law as Minnesota Statutes, chapter 259A; repealing Minnesota Statutes 2010, sections 256.022; 259.67; 259.71; 260C.201, subdivision 11; 260C.215, subdivision 2; 260C.456; Minnesota Rules, parts 9560.0071; 9560.0082; 9560.0083; 9560.0091; 9560.0093, subparts 1, 3, 4; 9560.0101; 9560.0102.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1  
CHILDREN AND FAMILIES POLICY PROVISIONS

Section 1. Minnesota Statutes 2010, section 13.46, subdivision 2, is amended to read:

Subd. 2. **General.** (a) Unless the data is summary data or a statute specifically provides a different classification, data on individuals collected, maintained, used, or disseminated by the welfare system is private data on individuals, and shall not be disclosed except:

- (1) according to section 13.05;
- (2) according to court order;
- (3) according to a statute specifically authorizing access to the private data;

(4) to an agent of the welfare system, including a law enforcement person, attorney, or investigator acting for it in the investigation or prosecution of a criminal or civil proceeding relating to the administration of a program;

(5) to personnel of the welfare system who require the data to verify an individual's identity; determine eligibility, amount of assistance, and the need to provide services to an individual or family across programs; evaluate the effectiveness of programs; assess parental contribution amounts; and investigate suspected fraud;

(6) to administer federal funds or programs;

(7) between personnel of the welfare system working in the same program;

(8) to the Department of Revenue to assess parental contribution amounts for purposes of section 252.27, subdivision 2a, administer and evaluate tax refund or tax credit programs and to identify individuals who may benefit from these programs. The following information may be disclosed under this paragraph: an individual's and their dependent's names, dates of birth, Social Security numbers, income, addresses, and other data as required, upon request by the Department of Revenue. Disclosures by the commissioner of revenue to the commissioner of human services for the purposes described in this clause are governed by section 270B.14, subdivision 1. Tax refund or tax credit programs include, but are not limited to, the dependent care credit under section 290.067, the Minnesota working family credit under section 290.0671, the property tax refund and rental credit under section 290A.04, and the Minnesota education credit under section 290.0674;

(9) between the Department of Human Services, the Department of Employment and Economic Development, and when applicable, the Department of Education, for the following purposes:

(i) to monitor the eligibility of the data subject for unemployment benefits, for any employment or training program administered, supervised, or certified by that agency;

(ii) to administer any rehabilitation program or child care assistance program, whether alone or in conjunction with the welfare system;

(iii) to monitor and evaluate the Minnesota family investment program or the child care assistance program by exchanging data on recipients and former recipients of food support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L; and

(iv) to analyze public assistance employment services and program utilization, cost, effectiveness, and outcomes as implemented under the authority established in Title II, Sections 201-204 of the Ticket to Work and Work Incentives Improvement Act of 1999. Health records governed by sections 144.291 to 144.298 and "protected health information" as defined in Code of Federal Regulations, title 45, section 160.103, and governed by Code of Federal Regulations, title 45, parts 160-164, including health care claims utilization information, must not be exchanged under this clause;

(10) to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the individual or other individuals or persons;

(11) data maintained by residential programs as defined in section 245A.02 may be disclosed to the protection and advocacy system established in this state according to Part C of Public Law 98-527 to protect the legal and human rights of persons with developmental disabilities or other related conditions who live in residential facilities for these persons if the protection and advocacy system receives a complaint by or on behalf of that person and the person does not have a legal guardian or the state or a designee of the state is the legal guardian of the person;

(12) to the county medical examiner or the county coroner for identifying or locating relatives or friends of a deceased person;

(13) data on a child support obligor who makes payments to the public agency may be disclosed to the Minnesota Office of Higher Education to the extent necessary to determine eligibility under section 136A.121, subdivision 2, clause (5);

(14) participant Social Security numbers and names collected by the telephone assistance program may be disclosed to the Department of Revenue to conduct an electronic data match with the property tax refund database to determine eligibility under section 237.70, subdivision 4a;

(15) the current address of a Minnesota family investment program participant may be disclosed to law enforcement officers who provide the name of the participant and notify the agency that:

(i) the participant:

(A) is a fugitive felon fleeing to avoid prosecution, or custody or confinement after conviction, for a crime or attempt to commit a crime that is a felony under the laws of the jurisdiction from which the individual is fleeing; or

(B) is violating a condition of probation or parole imposed under state or federal law;

(ii) the location or apprehension of the felon is within the law enforcement officer's official duties; and

(iii) the request is made in writing and in the proper exercise of those duties;

(16) the current address of a recipient of general assistance or general assistance medical care may be disclosed to probation officers and corrections agents who are supervising the recipient and to law enforcement officers who are investigating the recipient in connection with a felony level offense;

(17) information obtained from food support applicant or recipient households may be disclosed to local, state, or federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the Food Stamp Act, according to Code of Federal Regulations, title 7, section 272.1 (c);

(18) the address, Social Security number, and, if available, photograph of any member of a household receiving food support shall be made available, on request, to a local, state, or federal law enforcement officer if the officer furnishes the agency with the name of the member and notifies the agency that:

(i) the member:

(A) is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime or attempt to commit a crime that is a felony in the jurisdiction the member is fleeing;

(B) is violating a condition of probation or parole imposed under state or federal law; or

(C) has information that is necessary for the officer to conduct an official duty related to conduct described in subitem (A) or (B);

(ii) locating or apprehending the member is within the officer's official duties; and

(iii) the request is made in writing and in the proper exercise of the officer's official duty;

(19) the current address of a recipient of Minnesota family investment program, general assistance, general assistance medical care, or food support may be disclosed to law enforcement officers who, in writing, provide the name of the recipient and notify the agency that the recipient is a person required to register under section 243.166, but is not residing at the address at which the recipient is registered under section 243.166;

(20) certain information regarding child support obligors who are in arrears may be made public according to section 518A.74;

(21) data on child support payments made by a child support obligor and data on the distribution of those payments excluding identifying information on obligees may be disclosed to all obligees to whom the obligor owes support, and data on the enforcement actions undertaken by the public authority, the status of those actions, and data on the income of the obligor or obligee may be disclosed to the other party;

(22) data in the work reporting system may be disclosed under section 256.998, subdivision 7;

(23) to the Department of Education for the purpose of matching Department of Education student data with public assistance data to determine students eligible for free and reduced-price meals, meal supplements, and free milk according to United States Code, title 42, sections 1758, 1761, 1766, 1766a, 1772, and 1773; to allocate federal and state funds that are distributed based on income of the student's family; and to verify receipt of energy assistance for the telephone assistance plan;

(24) the current address and telephone number of program recipients and emergency contacts may be released to the commissioner of health or a local board of health as defined in section 145A.02, subdivision 2, when the commissioner or local board of health has reason to believe that a program recipient is a disease case, carrier, suspect case, or at risk of illness, and the data are necessary to locate the person;

(25) to other state agencies, statewide systems, and political subdivisions of this state, including the attorney general, and agencies of other states, interstate information networks, federal agencies, and other entities as required by federal regulation or law for the administration of the child support enforcement program;

(26) to personnel of public assistance programs as defined in section 256.741, for access to the child support system database for the purpose of administration, including monitoring and evaluation of those public assistance programs;

(27) to monitor and evaluate the Minnesota family investment program by exchanging data between the Departments of Human Services and Education, on recipients and former recipients of food support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L;

(28) to evaluate child support program performance and to identify and prevent fraud in the child support program by exchanging data between the Department of Human Services, Department of Revenue under section 270B.14, subdivision 1, paragraphs (a) and (b), without regard to the limitation of use in paragraph (c), Department of Health, Department of Employment and Economic Development, and other state agencies as is reasonably necessary to perform these functions;

(29) counties operating child care assistance programs under chapter 119B may disseminate data on program participants, applicants, and providers to the commissioner of education; or

(30) child support data ~~on the parents and the child~~ may be disclosed to agencies administering programs under titles IV-B and IV-E of the Social Security Act, ~~as provided only to the extent mandated~~ by federal law. ~~Data may be disclosed only to the extent necessary for the purpose of establishing parentage or for determining who has or may have parental rights with respect to a child, which could be related to permanency planning.~~

(b) Information on persons who have been treated for drug or alcohol abuse may only be disclosed according to the requirements of Code of Federal Regulations, title 42, sections 2.1 to 2.67.

(c) Data provided to law enforcement agencies under paragraph (a), clause (15), (16), (17), or (18), or paragraph (b), are investigative data and are confidential or protected nonpublic while the investigation is active. The data are private after the investigation becomes inactive under section 13.82, subdivision 5, paragraph (a) or (b).

(d) Mental health data shall be treated as provided in subdivisions 7, 8, and 9, but is not subject to the access provisions of subdivision 10, paragraph (b).

For the purposes of this subdivision, a request will be deemed to be made in writing if made through a computer interface system.

Sec. 2. Minnesota Statutes 2010, section 13.461, subdivision 17, is amended to read:

Subd. 17. **Maltreatment review panels.** Data of the vulnerable adult maltreatment review panel ~~or the child maltreatment review panel~~ are classified under section 256.021 ~~or 256.022~~.

Sec. 3. Minnesota Statutes 2010, section 13.465, is amended by adding a subdivision to read:

Subd. 5a. **Adoptive parent.** Certain data that may be disclosed to a prospective adoptive parent is governed by section 260C.613, subdivision 2.

Sec. 4. Minnesota Statutes 2010, section 256.998, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Date of hiring" means the earlier of: (1) the first day for which an employee is owed compensation by an employer; or (2) the first day that an employee reports to work or performs labor or services for an employer.

(c) "Earnings" means payment owed by an employer for labor or services rendered by an employee.

(d) "Employee" means a person who resides or works in Minnesota, performs services for compensation, in whatever form, for an employer and satisfies the criteria of an employee under chapter 24 of the Internal Revenue Code. Employee does not include:

(1) persons hired for domestic service in the private home of the employer, as defined in the Federal Tax Code; or

(2) an employee of the federal or state agency performing intelligence or counterintelligence functions, if the head of such agency has determined that reporting according to this law would endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

(e) "Employer" means a person or entity located or doing business in this state that employs one or more employees for payment, and satisfies the criteria of an employer under chapter 24 of the Internal Revenue Code. Employer includes a labor organization as defined in paragraph (g). Employer also includes the state, political or other governmental subdivisions of the state, and the federal government.

(f) "Hiring" means engaging a person to perform services for compensation and includes the reemploying or return to work of any previous employee who was laid off, furloughed, separated, granted a leave without pay, or terminated from employment when a period of ~~90~~ 60 days elapses from the date of layoff, furlough, separation, leave, or termination to the date of the person's return to work.

(g) "Labor organization" means entities located or doing business in this state that meet the criteria of labor organization under section 2(5) of the National Labor Relations Act. This includes any entity, that may also be known as a hiring hall, used to carry out requirements described in chapter 7 of the National Labor Relations Act.

(h) "Payor" means a person or entity located or doing business in Minnesota who pays money to an independent contractor according to an agreement for the performance of services.

Sec. 5. Minnesota Statutes 2010, section 256.998, subdivision 5, is amended to read:

Subd. 5. **Report contents.** Reports required under this section must contain: all the information required by federal law.

~~(1) the employee's name, address, Social Security number, and date of birth when available, which can be handwritten or otherwise added to the W-4 form, W-9 form, or other document submitted; and~~

~~(2) the employer's name, address, and federal identification number.~~

Sec. 6. Minnesota Statutes 2010, 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 including a breakdown of the cash and food portions effective October 1, 2009.~~

| Number of Eligible People | Transitional Standard | Cash Portion | Food Portion |
|---------------------------|-----------------------|--------------|--------------|
| 1                         | <del>\$428:</del>     | \$250        | \$178        |
| 2                         | <del>\$764:</del>     | \$437        | \$327        |
| 3                         | <del>\$1,005:</del>   | \$532        | \$473        |
| 4                         | <del>\$1,222:</del>   | \$621        | \$601        |
| 5                         | <del>\$1,399:</del>   | \$697        | \$702        |
| 6                         | <del>\$1,608:</del>   | \$773        | \$835        |
| 7                         | <del>\$1,754:</del>   | \$850        | \$904        |
| 8                         | <del>\$1,940:</del>   | \$916        | \$1,024      |
| 9                         | <del>\$2,125:</del>   | \$980        | \$1,145      |
| 10                        | <del>\$2,304:</del>   | \$1,035      | \$1,269      |
| over 10                   |                       |              |              |
| per additional member.    | <del>add \$178:</del> | \$53         | \$125        |

The amount of the transitional standard is published annually by the Department of Human Services.

Sec. 7. Minnesota Statutes 2010, section 259.22, subdivision 2, is amended to read:

Subd. 2. **Persons who may be adopted.** No petition for adoption shall be filed unless the person sought to be adopted has been placed by ~~the commissioner of human services, the commissioner's agent, or~~ a licensed child-placing agency. The provisions of this subdivision shall not apply if:

- (1) the person to be adopted is over 14 years of age;
- (2) the child is sought to be adopted by an individual who is related to the child, as defined by section 245A.02, subdivision 13;
- (3) the child has been lawfully placed under the laws of another state while the child and petitioner resided in that other state;
- (4) the court waives the requirement of this subdivision in the best interests of the child or petitioners, provided that the adoption does not involve a placement as defined in section 259.21, subdivision 8; or
- (5) the child has been lawfully placed under section 259.47.

Sec. 8. Minnesota Statutes 2010, section 259.23, subdivision 1, is amended to read:

Subdivision 1. **Venue.** (a) ~~Except as provided in section 260C.101, subdivision 2,~~ The juvenile court shall have original jurisdiction in all adoption proceedings. The proper venue for an adoption proceeding shall be the county of the petitioner's residence, except as provided in ~~paragraph (b)~~ section 260C.621, subdivision 2, for the adoption of children under the guardianship of the commissioner.

~~(b) Venue for the adoption of a child committed to the guardianship of the commissioner of human services shall be the county with jurisdiction in the matter according to section 260C.317, subdivision 3.~~

~~(c) Upon request of the petitioner, the court having jurisdiction over the matter under section 260C.317, subdivision 3, may transfer venue of an adoption proceeding involving a child under the guardianship of the commissioner to the county of the petitioner's residence upon determining that:~~

- ~~(1) the commissioner has given consent to the petitioner's adoption of the child or that consent is unreasonably withheld;~~
- ~~(2) there is no other adoption petition for the child that has been filed or is reasonably anticipated by the commissioner or the commissioner's delegate to be filed; and~~
- ~~(3) transfer of venue is in the best interests of the child.~~

Transfer of venue under this paragraph shall be according to the rules of adoption court procedure.

~~(d)~~ (b) In all other adoptions under this chapter, if the petitioner has acquired a new residence in another county and requests a transfer of the adoption proceeding, the court in which an adoption is initiated may transfer the proceeding to the appropriate court in the new county of residence if the transfer is in the best interests of the person to be adopted. The court transfers the proceeding by ordering a continuance and by forwarding to the court administrator of the appropriate court a certified copy of all papers filed, together with an order of transfer. The transferring court also shall forward copies of the order of transfer to the commissioner of human services and any agency participating in the proceedings. The judge of the receiving court shall accept the order of the transfer and any other documents transmitted and hear the case; provided, however, the receiving court may in its discretion require the filing of a new petition prior to the hearing.

Sec. 9. Minnesota Statutes 2010, section 259.24, subdivision 1, is amended to read:

Subdivision 1. **Exceptions.** (a) No child shall be adopted without the consent of the child's parents and the child's guardian, if there be one, except ~~in the following instances~~ consent is not required of a parent:

~~(a) Consent shall not be required of a parent (1) who is not entitled to notice of the proceedings;~~

~~(b) Consent shall not be required of a parent (2) who has abandoned the child, or of a parent who has lost custody of the child through a divorce decree or a decree of dissolution, and upon whom notice has been served as required by section 259.49; or~~

~~(c) Consent shall not be required of a parent (3) whose parental rights to the child have been terminated by a juvenile court or who has lost custody of a child through a final commitment of the juvenile court or through a decree in a prior adoption proceeding.~~

~~(d) If there be no parent or guardian qualified to consent to the adoption, the consent shall be given by the commissioner. After the court accepts a parent's consent to the adoption under section 260C.201, subdivision 11, consent by the commissioner or commissioner's delegate is also necessary. Agreement to the identified prospective adoptive parent by the responsible social services agency under section 260C.201, subdivision 11, does not constitute the required consent.~~

~~(e) (b) If there is no parent or guardian qualified to consent to the adoption, the commissioner or agency having authority to place a child for adoption pursuant to section 259.25, subdivision 1, shall have the exclusive right to consent to the adoption of such the child. The commissioner or agency shall make every effort to place siblings together for adoption. Notwithstanding any rule to the contrary, the commissioner may delegate the right to consent to the adoption or separation of siblings, if it is in the child's best interest, to a local social services agency.~~

Sec. 10. Minnesota Statutes 2010, section 259.24, subdivision 3, is amended to read:

Subd. 3. **Child.** When the child to be adopted is over 14 years of age, the child's written consent to adoption by a particular person is also necessary. ~~A child of any age who is under the guardianship of the commissioner and is legally available for adoption may not refuse or waive the commissioner's agent's exhaustive efforts to recruit, identify, and place the child in an adoptive home required under section 260C.317, subdivision 3, paragraph (b), or sign a document relieving county social services agencies of all recruitment efforts on the child's behalf.~~

Sec. 11. Minnesota Statutes 2010, section 259.24, subdivision 5, is amended to read:

Subd. 5. **Execution.** All consents to an adoption shall be in writing, executed before two competent witnesses, and acknowledged by the consenting party. ~~In addition, all consents to an adoption, except those by the commissioner, the commissioner's agent, a licensed child-placing agency, an adult adoptee, or the child's parent in a petition for adoption by a stepparent, shall be executed before a representative of the commissioner, the commissioner's agent, or a licensed child-placing agency. All consents by a parent to adoption under this chapter:~~

(1) shall contain notice to the parent of the substance of subdivision 6a, providing for the right to withdraw consent unless the parent will not have the right to withdraw consent ~~because consent was executed under section 260C.201, subdivision 11, following proper notice that consent given under that provision is irrevocable upon acceptance by the court as provided in subdivision 6a; and~~

(2) shall contain the following written notice in all capital letters at least one-eighth inch high:

~~This~~ The agency responsible for supervising the adoptive placement of the child will submit your consent to adoption to the court. If you are consenting to adoption by the child's stepparent, the consent will be submitted to the court by the petitioner in your child's adoption. The consent itself does not terminate your parental rights. Parental rights to a child may be terminated only by an adoption decree or by a court order terminating parental rights. Unless the child is adopted or your parental rights are terminated, you may be asked to support the child."

Consents shall be filed in the adoption proceedings at any time before the matter is heard provided, however, that a consent executed and acknowledged outside of this state, either in accordance with the law of this state or in accordance with the law of the place where executed, is valid.

Sec. 12. Minnesota Statutes 2010, section 259.24, subdivision 6a, is amended to read:

Subd. 6a. **Withdrawal of consent.** ~~Except for consents executed under section 260C.201, subdivision 11, A~~ parent's consent to adoption under this chapter may be withdrawn for any reason within ten working days after the consent is executed and acknowledged. No later than the tenth working day after the consent is executed and acknowledged, written notification of withdrawal of consent must be received by: (1) the agency to which the child was surrendered no later than the tenth working day after the consent is executed and acknowledged; (2) the agency supervising the adoptive placement of the child; or (3) in the case of adoption by the step parent or any adoption not involving agency placement or supervision, by the district court where the adopting stepparent or parent resides. On the day following the tenth working day after execution and acknowledgment, the consent shall become irrevocable, except upon order of a court of competent jurisdiction after written findings that consent was obtained by fraud. ~~A consent to adopt executed under section 260C.201, subdivision 11, is irrevocable upon proper notice to both parents of the effect of a consent to adopt and acceptance by the court, except upon order of the same court after written findings that the consent was obtained by fraud. In proceedings to determine the existence of fraud, the adoptive parents and the child shall be made parties.~~ The proceedings shall be conducted to preserve the confidentiality of the adoption process. There shall be no presumption in the proceedings favoring the birth parents over the adoptive parents.

Sec. 13. Minnesota Statutes 2010, section 259.24, subdivision 7, is amended to read:

Subd. 7. **Withholding consent; reason.** Consent to an adoption shall not be unreasonably withheld by a guardian, who is not a parent of the child, ~~by the commissioner~~ or by an agency.

Sec. 14. Minnesota Statutes 2010, section 259.29, subdivision 2, is amended to read:

Subd. 2. **Placement with relative or friend.** The authorized child-placing agency shall consider placement, consistent with the child's best interests and in the following order, with (1) a relative or relatives of the child, or (2) an important friend with whom the child has resided or had significant contact. In implementing this section, an authorized child-placing 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 adoptive home. The agency shall disclose only data that is necessary to facilitate implementing the preference.

If the child's birth parent or parents explicitly request that placement with ~~relatives~~ a specific relative or important ~~friends~~ friend not be considered, the authorized child-placing agency shall honor that request if it is consistent with the best interests of the child and consistent with the requirements of sections 260C.212, subdivision 2, and 260C.221.

If the child's birth parent or parents express a preference for placing the child in an adoptive home of the same or a similar religious background to that of the birth parent or parents, the agency shall place the child with a family that meets the birth parent's religious preference.

This subdivision does not affect the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923, and the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835.

Sec. 15. Minnesota Statutes 2010, section 260.771, subdivision 3, is amended to read:

Subd. 3. **Transfer of proceedings.** In a proceeding for (1) the termination of parental rights or, (2) the involuntary foster care placement of an Indian child not within the jurisdiction of subdivision 1, or (3) the preadoptive placement or adoptive placement of an Indian child not within the jurisdiction of subdivision 1, the court, in the absence of good cause to the contrary, shall transfer the proceeding to the jurisdiction of the tribe absent objection by either parent, upon the petition of either parent or the Indian custodian or the Indian child's tribe. The transfer shall be subject to declination by the tribal court of such tribe. For purposes of this subdivision, "preadoptive placement" and "adoptive placement" have the meanings given in section 260.755, subdivision 3.

Sec. 16. Minnesota Statutes 2010, section 260C.193, subdivision 3, is amended to read:

Subd. 3. **Best interest of the child in foster care or residential care.** (a) The policy of the state is to ensure that the best interests of children in foster ~~or residential~~ care are met by requiring individualized determinations under section 260C.212, subdivision 2, paragraph (b), of the needs of the child and of how the selected placement will serve the needs of the child in foster care placements.

(b) The court shall review whether the responsible social services agency made efforts as required under section ~~260C.212, subdivision 5~~ 260C.221, and made an individualized determination as required under section 260C.212, subdivision 2. If the court finds the agency has not made efforts as required under section ~~260C.212, subdivision 5~~ 260C.221, and there is a relative who qualifies to be licensed to provide family foster care under chapter 245A, the court may order the child placed with the relative consistent with the child's best interests.

(c) If the child's birth parent or parents explicitly request that a relative or important friend not be considered, the court shall honor that request if it is consistent with the best interests of the child and consistent with the requirements of section 260C.221. If the child's birth parent or parents express a preference for placing the child in a foster or adoptive home of the same or a similar religious background to that of the birth parent or parents, the court shall order placement of the child with an individual who meets the birth parent's religious preference.

(d) Placement of a child cannot be delayed or denied based on race, color, or national origin of the foster parent or the child.

(e) Whenever possible, siblings requiring foster care placement should be placed together unless it is determined not to be in the best interests of a sibling after weighing the benefits of separate placement against the benefits of sibling connections for each sibling. If siblings are not placed together according to section 260C.212, subdivision 2, paragraph (d), the responsible social services agency shall report to the court the efforts made to place the siblings together and why the efforts were not successful. If the court is not satisfied with the agency's efforts to place siblings together, the court may order the agency to make further efforts. If siblings are not placed together the court shall review the responsible social services agency's plan for visitation among siblings required as part of the out-of-home placement plan under section 260C.212.

(f) This subdivision does not affect the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923, and the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835.

Sec. 17. Minnesota Statutes 2010, section 260C.201, subdivision 11a, is amended to read:

Subd. 11a. **Permanency progress review for children under eight in foster care for six months.** ~~(a) If the child was under eight years of age at the time the petition was filed alleging the child was in need of protection or services, and the~~ When a child continues in placement out of the home of the parent or guardian from whom the child was removed, no later than six months after the child's placement the court shall conduct a permanency progress hearing to review:

(1) the progress of the case, the parent's progress on the case plan or out-of-home placement plan, and whichever is applicable;

(2) the agency's reasonable, or in the case of an Indian child, active efforts for reunification and its provision of services;

(3) the agency's reasonable efforts to finalize the permanent plan for the child under section 260.012, paragraph (e), and to make a placement as required under section 260C.212, subdivision 2, in a home that will commit to being the legally permanent family for the child in the event the child cannot return home according to the timelines in this section; and

(4) in the case of an Indian child, active efforts to prevent the breakup of the Indian family and to make a placement according to the placement preferences under United States Code, title 25, chapter 21, section 1915.

~~(b) Based on its assessment of the parent's or guardian's progress on the out of home placement plan, the responsible social services agency must ask the county attorney to file a petition for termination of parental rights, a petition for transfer of permanent legal and physical custody to a relative, or the report required under juvenile court rules.~~

(b) The court shall ensure that notice of the hearing is sent to any relative who:

(1) responded to the agency's notice provided under section 260C.221, indicating an interest in participating in planning for the child or being a permanency resource for the child and who has kept the court apprised of the relative's address; or

(2) asked to be notified of court proceedings regarding the child as is permitted in section 260C.152, subdivision 5.

(c)(1) If the parent or guardian has maintained contact with the child and is complying with the court-ordered out-of-home placement plan, and if the child would benefit from reunification with the parent, the court may either:

(i) return the child home, if the conditions which led to the out-of-home placement have been sufficiently mitigated that it is safe and in the child's best interests to return home; or

(ii) continue the matter up to a total of six additional months. If the child has not returned home by the end of the additional six months, the court must conduct a hearing according to subdivision 11.

(2) If the court determines that the parent or guardian is not complying with the out-of-home placement plan or is not maintaining regular contact with the child as outlined in the visitation plan required as part of the out-of-home placement plan under section 260C.212, the court may order the responsible social services agency:

(i) to develop a plan for legally permanent placement of the child away from the parent and;

(ii) to consider, identify, recruit, and support one or more permanency resources from the child's relatives and foster parent to be the legally permanent home in the event the child cannot be returned to the parent. Any relative or the child's foster parent may ask the court to order the agency to consider them for permanent placement of the child in the event the child cannot be returned to the parent. A relative or foster parent who wants to be considered under this item shall cooperate with the background study required under section 245C.08, if the individual has not already done so, and with the home study process required under chapter 245A for providing child foster care and for adoption under section 259.41. The home study referred to in this item shall be a single-home study in the form required by the commissioner of human services or similar study required by the individual's state of residence when the subject of the study is not a resident of Minnesota. The court may order the responsible social services agency to make a referral under the Interstate Compact on the Placement of Children when necessary to obtain a home study for an individual who wants to be considered for transfer of permanent legal and physical custody or adoption of the child; and

(iii) to file a petition to support an order for the legally permanent placement plan.

(d) Following the review under ~~paragraphs (b) and (c)~~ this subdivision:

(1) if the court has either returned the child home or continued the matter up to a total of six additional months, the agency shall continue to provide services to support the child's return home or to make reasonable efforts to achieve reunification of the child and the parent as ordered by the court under an approved case plan;

(2) if the court orders the agency to develop a plan for the transfer of permanent legal and physical custody of the child to a relative, a petition supporting the plan shall be filed in juvenile court within 30 days of the hearing required under this subdivision and a trial on the petition held within ~~30~~ 60 days of the filing of the pleadings; or

(3) if the court orders the agency to file a termination of parental rights, unless the county attorney can show cause why a termination of parental rights petition should not be filed, a petition for termination of parental rights shall be filed in juvenile court within 30 days of the hearing required under this subdivision and a trial on the petition held within ~~90~~ 60 days of the filing of the petition.

Sec. 18. Minnesota Statutes 2010, section 260C.212, subdivision 1, is amended to read:

Subdivision 1. **Out-of-home placement; plan.** (a) An out-of-home placement plan shall be prepared within 30 days after any child is placed in foster care by court order or a voluntary placement agreement between the responsible social services agency and the child's parent pursuant to subdivision 8 or chapter 260D.

(b) An out-of-home placement plan means a written document which is prepared by the responsible social services agency jointly with the parent or parents or guardian of the child and in consultation with the child's guardian ad litem, the child's tribe, if the child is an Indian child, the child's foster parent or representative of the ~~residential foster care~~ facility, and, where appropriate, the child. For a child in voluntary foster care for treatment under chapter 260D, preparation of the out-of-home placement plan shall additionally include the child's mental health treatment provider. As appropriate, the plan shall be:

(1) submitted to the court for approval under section 260C.178, subdivision 7;

(2) ordered by the court, either as presented or modified after hearing, under section 260C.178, subdivision 7, or 260C.201, subdivision 6; and

(3) signed by the parent or parents or guardian of the child, the child's guardian ad litem, a representative of the child's tribe, the responsible social services agency, and, if possible, the child.

(c) The out-of-home placement plan shall be explained to all persons involved in its implementation, including the child who has signed the plan, and shall set forth:

(1) a description of the ~~residential facility~~ foster care home or facility selected including how the out-of-home placement plan is designed to achieve a safe placement for the child in the least restrictive, most family-like, setting available which is in close proximity to the home of the parent or parents or guardian of the child when the case plan goal is reunification, and how the placement is consistent with the best interests and special needs of the child according to the factors under subdivision 2, paragraph (b);

(2) the specific reasons for the placement of the child in a ~~residential facility~~ foster care, and when reunification is the plan, a description of the problems or conditions in the home of the parent or parents which necessitated removal of the child from home and the changes the parent or parents must make in order for the child to safely return home;

(3) a description of the services offered and provided to prevent removal of the child from the home and to reunify the family including:

(i) the specific actions to be taken by the parent or parents of the child to eliminate or correct the problems or conditions identified in clause (2), and the time period during which the actions are to be taken; and

(ii) the reasonable efforts, or in the case of an Indian child, active efforts to be made to achieve a safe and stable home for the child including social and other supportive services to be provided or offered to the parent or parents or guardian of the child, the child, and the residential facility during the period the child is in the residential facility;

(4) a description of any services or resources that were requested by the child or the child's parent, guardian, foster parent, or custodian since the date of the child's placement in the residential facility, and whether those services or resources were provided and if not, the basis for the denial of the services or resources;

(5) the visitation plan for the parent or parents or guardian, other relatives as defined in section 260C.007, subdivision 27, and siblings of the child if the siblings are not placed together in foster care, and whether visitation is consistent with the best interest of the child, during the period the child is in foster care;

(6) documentation of steps to finalize the adoption or legal guardianship of the child if the court has issued an order terminating the rights of both parents of the child or of the only known, living parent of the child. At a minimum, the documentation must include child-specific recruitment efforts such as relative search and the use of state, regional, and national adoption exchanges to facilitate orderly and timely placements in and outside of the state. A copy of this documentation shall be provided to the court in the review required under section 260C.317, subdivision 3, paragraph (b);

(7) efforts to ensure the child's educational stability while in foster care, including:

(i) efforts to ensure that the child ~~in placement~~ remains in the same school in which the child was enrolled prior to placement or upon the child's move from one placement to another, including efforts to work with the local education authorities to ensure the child's educational stability; or

(ii) if it is not in the child's best interest to remain in the same school that the child was enrolled in prior to placement or move from one placement to another, efforts to ensure immediate and appropriate enrollment for the child in a new school;

(8) the educational records of the child including the most recent information available regarding:

(i) the names and addresses of the child's educational providers;

(ii) the child's grade level performance;

(iii) the child's school record;

(iv) a statement about how the child's placement in foster care takes into account proximity to the school in which the child is enrolled at the time of placement; and

(v) any other relevant educational information;

(9) the efforts by the local agency to ensure the oversight and continuity of health care services for the foster child, including:

(i) the plan to schedule the child's initial health screens;

(ii) how the child's known medical problems and identified needs from the screens, including any known communicable diseases, as defined in section 144.4172, subdivision 2, will be monitored and treated while the child is in foster care;

(iii) how the child's medical information will be updated and shared, including the child's immunizations;

(iv) who is responsible to coordinate and respond to the child's health care needs, including the role of the parent, the agency, and the foster parent;

(v) who is responsible for oversight of the child's prescription medications;

(vi) how physicians or other appropriate medical and nonmedical professionals will be consulted and involved in assessing the health and well-being of the child and determine the appropriate medical treatment for the child; and

(vii) the responsibility to ensure that the child has access to medical care through either medical insurance or medical assistance;

(10) the health records of the child including information available regarding:

(i) the names and addresses of the child's health care and dental care providers;

(ii) a record of the child's immunizations;

(iii) the child's known medical problems, including any known communicable diseases as defined in section 144.4172, subdivision 2;

(iv) the child's medications; and

(v) any other relevant health care information such as the child's eligibility for medical insurance or medical assistance;

(11) an independent living plan for a child age 16 or older ~~who is in placement as a result of a permanency disposition~~. The plan should include, but not be limited to, the following objectives:

(i) educational, vocational, or employment planning;

(ii) health care planning and medical coverage;

(iii) transportation including, where appropriate, assisting the child in obtaining a driver's license;

(iv) money management, including the responsibility of the agency to ensure that the youth annually receives, at no cost to the youth, a consumer report as defined under section 13C.001 and assistance in interpreting and resolving any inaccuracies in the report;

(v) planning for housing;

(vi) social and recreational skills; and

(vii) establishing and maintaining connections with the child's family and community; and

(12) for a child in voluntary foster care for treatment under chapter 260D, diagnostic and assessment information, specific services relating to meeting the mental health care needs of the child, and treatment outcomes.

(d) The parent or parents or guardian and the child each shall have the right to legal counsel in the preparation of the case plan and shall be informed of the right at the time of placement of the child. The child shall also have the right to a guardian ad litem. If unable to employ counsel from their own resources, the court shall appoint counsel upon the request of the parent or parents or the child or the child's legal guardian. The parent or parents may also receive assistance from any person or social services agency in preparation of the case plan.

After the plan has been agreed upon by the parties involved or approved or ordered by the court, the foster parents shall be fully informed of the provisions of the case plan and shall be provided a copy of the plan.

Upon discharge from foster care, the parent, adoptive parent, or permanent legal and physical custodian, as appropriate, and the child, if appropriate, must be provided with a current copy of the child's health and education record.

Sec. 19. Minnesota Statutes 2010, section 260C.212, subdivision 2, is amended to read:

Subd. 2. **Placement decisions based on best interest of the child.** (a) The policy of the state of Minnesota is to ensure that the child's best interests are met by requiring an individualized determination of the needs of the child and of how the selected placement will serve the needs of the child being placed. The authorized child-placing agency shall place a child, released by court order or by voluntary release by the parent or parents, in a family foster home selected by considering placement with relatives and important friends in the following order:

(1) with an individual who is related to the child by blood, marriage, or adoption; or

(2) with an individual who is an important friend with whom the child has resided or had significant contact.

(b) Among the factors the agency shall consider in determining the needs of the child are the following:

(1) the child's current functioning and behaviors;

(2) the medical; needs of the child;

(3) the educational, and needs of the child;

(4) the developmental needs of the child;

(3) (5) the child's history and past experience;

(4) (6) the child's religious and cultural needs;

(5) (7) the child's connection with a community, school, and faith community;

(6) (8) the child's interests and talents;

(7) (9) the child's relationship to current caretakers, parents, siblings, and relatives; and

(8) (10) the reasonable preference of the child, if the court, or the child-placing agency in the case of a voluntary placement, deems the child to be of sufficient age to express preferences.

(c) Placement of a child cannot be delayed or denied based on race, color, or national origin of the foster parent or the child.

(d) Siblings should be placed together for foster care and adoption at the earliest possible time unless it is documented that a joint placement would be contrary to the safety or well-being of any of the siblings or unless it is not possible after reasonable efforts by the responsible social services agency. In cases where siblings cannot be placed together, the agency is required to provide frequent visitation or other ongoing interaction between siblings unless the agency documents that the interaction would be contrary to the safety or well-being of any of the siblings.

(e) Except for emergency placement as provided for in section 245A.035, a completed background study is required under section 245C.08 before the approval of a foster placement in a related or unrelated home.

Sec. 20. Minnesota Statutes 2010, section 260C.212, subdivision 5, is amended to read:

Subd. 5. **Relative search.** (a) The responsible social services agency shall exercise due diligence to identify and notify adult relatives prior to placement or within 30 days after the child's removal from the parent. The county agency shall consider placement with a relative under ~~subdivision 2~~ section 260C.221 without delay. 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. 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:

(1) of the need for a foster home for the child, the option to become a placement resource for the child, and the possibility of the need for a permanent placement for the child;

(2) of their responsibility to keep the responsible social services agency and the court informed of their current address in order to receive notice in the event that a permanent placement is sought for the child and to receive notice of the permanency progress review hearing under section 260C.204. A relative who fails to provide a current address to the responsible social services agency and the court forfeits the right to receive notice of the possibility of permanent placement and of the permanency progress review hearing under section 260C.204. 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;

(3) that the relative may participate in the care and planning for the child, including that the opportunity for such participation may be lost by failing to respond to the notice sent under this subdivision; and

(4) of the family foster care licensing requirements, including how to complete an application and how to request a variance from licensing standards that do not present a safety or health risk to the child in the home under section 245A.04 and supports that are available for relatives and children who reside in a family foster home.

(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 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 due to safety reasons including past family or domestic violence, 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~~ the specific relative unless authorized to do so by when the juvenile court finds that contacting the specific relative would endanger the parent, guardian, child, sibling, or any family member.

(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 (d).~~ 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. 21. Minnesota Statutes 2010, section 260C.212, subdivision 7, is amended to read:

Subd. 7. **Administrative or court review of placements.** (a) There shall be an administrative review of the out-of-home placement plan of each child placed in foster care no later than 180 days after the initial placement of the child in foster care and at least every six months thereafter if the child is not returned to the home of the parent or parents within that time. The out-of-home placement plan must be monitored and updated at each administrative review. The administrative review shall be conducted by the responsible social services agency using a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review. The administrative review shall be open to participation by the parent or guardian of the child and the child, as appropriate.

(b) As an alternative to the administrative review required in paragraph (a), the court may, as part of any hearing required under the Minnesota Rules of Juvenile Protection Procedure, conduct a hearing to monitor and update the out-of-home placement plan pursuant to the procedure and standard in section 260C.201, subdivision 6, paragraph (d). The party requesting review of the out-of-home placement plan shall give parties to the proceeding notice of the request to review and update the out-of-home placement plan. A court review conducted pursuant to section 260C.193; 260C.201, subdivision 1 or 11; 260C.141, subdivision 2; 260C.317; or 260D.06 shall satisfy the requirement for the review so long as the other requirements of this section are met.

(c) As appropriate to the stage of the proceedings and relevant court orders, the responsible social services agency or the court shall review:

- (1) the safety, permanency needs, and well-being of the child;
- (2) the continuing necessity for and appropriateness of the placement;
- (3) the extent of compliance with the out-of-home placement plan;
- (4) the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care;
- (5) the projected date by which the child may be returned to and safely maintained in the home or placed permanently away from the care of the parent or parents or guardian; and
- (6) the appropriateness of the services provided to the child.

(d) When a child is age 16 or older, in addition to any administrative review conducted by the agency, at the in-court review required under section 260C.201, subdivision 11, or 260C.317, subdivision 3, clause (3), the court shall review the independent living plan required under subdivision 1, paragraph (c), clause (11), and the provision of services to the child related to the well-being of the child as the child prepares to leave foster care. The review shall include the actual plans related to each item in the plan necessary to the child's future safety and well-being when the child is no longer in foster care.

(1) At the court review, the responsible social services agency shall establish that it has given the notice required under section 260C.456 or Minnesota Rules, part 9560.0660, regarding the right to continued access to services for certain children in foster care past age 18 and of the right to appeal a denial of social services under section 256.045. If the agency is unable to establish that the notice, including the right to appeal a denial of social services, has been given, the court shall require the agency to give it.

(2) Consistent with the requirements of the independent living plan, the court shall review progress toward or accomplishment of the following goals:

- (i) the child has obtained a high school diploma or its equivalent;
- (ii) the child has completed a driver's education course or has demonstrated the ability to use public transportation in the child's community;
- (iii) the child is employed or enrolled in postsecondary education;
- (iv) the child has applied for and obtained postsecondary education financial aid for which the child is eligible;

(v) the child has health care coverage and health care providers to meet the child's physical and mental health needs;

(vi) the child has applied for and obtained disability income assistance for which the child is eligible;

(vii) the child has obtained affordable housing with necessary supports, which does not include a homeless shelter;

(viii) the child has saved sufficient funds to pay for the first month's rent and a damage deposit;

(ix) the child has an alternative affordable housing plan, which does not include a homeless shelter, if the original housing plan is unworkable;

(x) the child, if male, has registered for the Selective Service; and

(xi) the child has a permanent connection to a caring adult.

(3) The court shall ensure that the responsible agency in conjunction with the placement provider assists the child in obtaining the following documents prior to the child's leaving foster care: a Social Security card; the child's birth certificate; a state identification card or driver's license, green card, or school visa; the child's school, medical, and dental records; a contact list of the child's medical, dental, and mental health providers; and contact information for the child's siblings, if the siblings are in foster care.

(e) When a child is age 17 or older, during the 90-day period immediately prior to the date the child is expected to be discharged from foster care, the responsible social services agency is required to provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child. The transition plan must be as detailed as the child may elect and include specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services. The agency shall ensure that the youth receives, at no cost to the youth, a copy of the youth's consumer credit report as defined in section 13C.001 and assistance in interpreting and resolving any inaccuracies in the report. The county agency shall also provide the individual youth with appropriate contact information if the individual youth needs more information or needs help dealing with a crisis situation through age 21.

Sec. 22. Minnesota Statutes 2010, section 260C.317, subdivision 3, is amended to read:

Subd. 3. **Order; retention of jurisdiction.** (a) A certified copy of the findings and the order terminating parental rights, and a summary of the court's information concerning the child shall be furnished by the court to the commissioner or the agency to which guardianship is transferred.

~~(b) The orders shall be on a document separate from the findings. The court shall furnish the individual to whom guardianship is transferred~~ guardian a copy of the order terminating parental rights.

~~(b) (c) When the court orders guardianship pursuant to this section, the court shall retain jurisdiction in a case where adoption is the intended permanent placement disposition until the child's adoption is finalized, the child is 18 years of age, or, for children in foster care beyond age 18 pursuant to section 260C.451, until the individual becomes 21 years of age according to the provisions set forth in sections 260C.193, subdivision 6, and 260C.451. The guardian ad litem and counsel for the child shall continue on the case until an adoption decree is entered. An in-court appearance hearing must be held every 90 days following termination of parental rights for the court to review progress toward an adoptive placement and the specific recruitment efforts the agency has taken to find an adoptive family or other placement living arrangement for the child and to finalize the adoption or other permanency plan. Review of the progress toward adoption of a child under guardianship of the commissioner of human services shall be conducted according to section 260C.607.~~

~~(c) The responsible social services agency may make a determination of compelling reasons for a child to be in long term foster care when the agency has made exhaustive efforts to recruit, identify, and place the child in an adoptive home, and the child continues in foster care for at least 24 months after the court has issued the order terminating parental rights. A child of any age who is under the guardianship of the commissioner of the Department of Human Services and is legally available for adoption may not refuse or waive the commissioner's agent's exhaustive efforts to recruit, identify, and place the child in an adoptive home required under paragraph (b) or sign a document relieving county social services agencies of all recruitment efforts on the child's behalf. Upon approving the agency's determination of compelling reasons, the court may order the child placed in long term foster care. At least every 12 months thereafter as long as the child continues in out of home placement, the court shall conduct an in court permanency review hearing to determine the future status of the child using the review requirements of section 260C.201, subdivision 11, paragraph (g).~~

(d) Upon terminating parental rights or upon a parent's consent to adoption under section 260C.201, subdivision 11, resulting in an order for guardianship to the commissioner of human services, the court shall retain jurisdiction;

(1) until the child is adopted;

(2) through the child's minority in a case where long term; or

(3) as long as the child continues in or reenters foster care is the permanent disposition whether under paragraph (e) or section 260C.201, subdivision 11, or, for children in foster care age 18 or older under section 260C.451, until the individual becomes 21 years of age according to the provisions in sections 260C.193, subdivision 6, and 260C.451.

Sec. 23. Minnesota Statutes 2010, section 260C.317, subdivision 4, is amended to read:

Subd. 4. **Rights of terminated parent.** (a) Upon entry of an order terminating the parental rights of any person who is identified as a parent on the original birth record of the child as to whom the parental rights are terminated, the court shall cause written notice to be made to that person setting forth:

(1) the right of the person to file at any time with the state registrar of vital statistics a consent to disclosure, as defined in section 144.212, subdivision 11;

(2) the right of the person to file at any time with the state registrar of vital statistics an affidavit stating that the information on the original birth record shall not be disclosed as provided in section 144.2252; and

(3) the effect of a failure to file either a consent to disclosure, as defined in section 144.212, subdivision 11, or an affidavit stating that the information on the original birth record shall not be disclosed.

(b) A parent whose rights are terminated under this section shall retain the ability to enter into a contact or communication agreement under section 260C.619 if an agreement is determined by the court to be in the best interests of the child. The agreement shall be filed with the court at or prior to the time the child is adopted. An order for termination of parental rights shall not be conditioned on an agreement under section 260C.619.

Sec. 24. Minnesota Statutes 2010, section 260C.325, subdivision 1, is amended to read:

Subdivision 1. ~~Transfer of custody~~ **Guardianship.** (a) If When the court terminates parental rights of both parents or of the only known living legal parent, the court shall order the guardianship and the legal custody of the child transferred to:

(1) the commissioner of human services;

(2) a licensed child-placing agency; or

(3) an individual who is willing and capable of assuming the appropriate duties and responsibilities to the child.

(b) The court shall order ~~transfer of guardianship and legal custody~~ of a child to the commissioner of human services ~~only~~ when the responsible county social services agency had legal responsibility for planning for the permanent placement of the child and the child was in foster care under the legal responsibility of the responsible county social services agency at the time the court orders guardianship ~~and legal custody transferred~~ to the commissioner. The court shall not order guardianship to the commissioner under any other circumstances, except as provided in subdivision 3.

Sec. 25. Minnesota Statutes 2010, section 260C.325, subdivision 3, is amended to read:

Subd. 3. **Both parents deceased.** (a) If upon petition ~~to the juvenile court~~ for guardianship by a reputable person, including but not limited to ~~an the responsible social services agency~~ as agent of the commissioner of human services, and upon hearing in the manner provided in section 260C.163, the court finds that both parents or the only known legal parent are or is deceased and no appointment has been made or petition for appointment filed pursuant to sections 524.5-201 to 524.5-317, the court shall order the guardianship ~~and legal custody~~ of the child transferred to:

(1) the commissioner of human services; or

~~(2) a licensed child-placing agency; or~~

~~(3)~~ (2) an individual who is willing and capable of assuming the appropriate duties and responsibilities to the child.

(b) The court shall order ~~transfer of guardianship and legal custody~~ of a child to the commissioner of human services only if there is no individual who is willing and capable of assuming the appropriate duties and responsibilities to the child.

Sec. 26. Minnesota Statutes 2010, section 260C.325, subdivision 4, is amended to read:

Subd. 4. **Guardian's responsibilities.** (a) A guardian appointed under ~~the provisions of~~ this section has legal custody of a ward ~~unless the court which appoints the guardian gives legal custody to some other person. If the court awards custody to a person other than the guardian, the guardian nonetheless has the right and responsibility of reasonable visitation, except as limited by court order.~~ the child and the right to visit the child in foster care, the adoptive placement, or any other suitable setting at any time prior to finalization of the adoption of the child. When the child is under the guardianship of the commissioner, the responsible social services agency, as agent of the commissioner, has the right to visit the child.

(b) When the guardian is a licensed child-placing agency, the guardian may shall make all major decisions affecting the person of the ward child, including, but not limited to, giving consent, (when consent is legally required), to the marriage, enlistment in the armed forces, medical, surgical, or psychiatric treatment, or adoption of the ward child. When, pursuant to this section, the commissioner of human services is appointed guardian, the commissioner may delegate to the responsible social services agency of the county in which, after the appointment, the ward resides, the authority to act for the commissioner in decisions affecting the person of the ward, including but not limited to giving consent to the marriage, enlistment in the armed forces, medical, surgical, or psychiatric treatment of the ward.

(c) When the commissioner is appointed guardian, the duties of the commissioner of human services are established under sections 260C.601 to 260C.635.

~~(e)~~ (d) A guardianship created under ~~the provisions of~~ this section shall not ~~of itself~~ include the guardianship of the estate of the ~~ward~~ child.

(e) The commissioner of human services, through the responsible social services agency, or a licensed child-placing agency who is a guardian or who has authority and responsibility for planning for the adoption of the child under section 259.25 or 259.47, has the duty to make reasonable efforts to finalize the adoption of the child.

Sec. 27. Minnesota Statutes 2010, section 260C.328, is amended to read:

**260C.328 CHANGE OF GUARDIAN; TERMINATION OF GUARDIANSHIP.**

(a) Upon its own motion or upon petition of an interested party, the juvenile court having jurisdiction of the child may, after notice to the parties and a hearing, remove the guardian appointed by the juvenile court and appoint a new guardian in accordance with the provisions of section 260C.325, subdivision 1, clause (a), (b), or (c). Upon a showing that the child is emancipated, the court may discharge the guardianship. Any child 14 years of age or older who is not adopted but who is placed in a satisfactory foster home, may, with the consent of the foster parents, join with the guardian appointed by the juvenile court in a petition to the court having jurisdiction of the child to discharge the existing guardian and appoint the foster parents as guardians of the child.

(b) The authority of a guardian appointed by the juvenile court terminates when the individual under guardianship is no longer a minor or when guardianship is otherwise discharged. becomes age 18. However, an individual who has been under the guardianship of the commissioner and who has not been adopted may continue in foster care or reenter foster care pursuant to section 260C.451 and the responsible social services agency has continuing legal responsibility for the placement of the individual.

Sec. 28. **[260C.601] ADOPTION OF CHILDREN UNDER GUARDIANSHIP OF COMMISSIONER.**

Subdivision 1. **Review and finalization requirements; adoption procedures.** (a) Sections 260C.601 to 260C.635 establish:

(1) the requirements for court review of children under the guardianship of the commissioner; and

(2) procedures for timely finalizing adoptions in the best interests of children under the guardianship of the commissioner.

(b) Adoption proceedings for children not under the guardianship of the commissioner are governed by chapter 259.

Subd. 2. **Duty of responsible agency.** The responsible social services agency has the duty to act as the commissioner's agent in making reasonable efforts to finalize the adoption of all children under the guardianship of the commissioner pursuant to section 260C.325. In implementing these duties, the agency shall ensure that:

(1) the best interests of the child are met in the planning and granting of adoptions;

(2) a child under the guardianship of the commissioner is appropriately involved in planning for adoption;

(3) the diversity of Minnesota's population and diverse needs including culture, religion, and language of persons affected by adoption are recognized and respected; and

(4) the court has the timely information it needs to make a decision that is in the best interests of the child in reviewing the agency's planning for adoption and when ordering the adoption of the child.

Subd. 3. **Background study.** Consistent with section 245C.33 and United States Code, title 42, section 671, a completed background study is required before the adoptive placement of the child in a related or an unrelated home.

Sec. 29. **[260C.603] DEFINITIONS.**

Subdivision 1. **Scope.** For the purposes of sections 260C.601 to 260C.635, the terms defined in this section have the meanings given them.

Subd. 2. **Adopting parent.** "Adopting parent" means an adult who has signed an adoption placement agreement regarding the child and has the same meaning as preadoptive parent under section 259A.01, subdivision 23.

Subd. 3. **Adoption placement agreement.** "Adoption placement agreement" means the written agreement between the responsible social services agency, the commissioner, and the adopting parent which reflects the intent of all the signatories to the agreement that the adopting parent establish a parent and child relationship by adoption with the child who is under the guardianship of the commissioner. The adoptive placement agreement must be in the commissioner's designated format.

Subd. 4. **Adoptive parent.** "Adoptive parent" has the meaning given in section 259A.01, subdivision 3.

Subd. 5. **Adoptive placement.** "Adoptive placement" means a placement made by the responsible social services agency upon a fully executed adoption placement agreement including the signatures of the adopting parent, the responsible social services agency, and the commissioner of human services according to section 260C.613, subdivision 1.

Subd. 6. **Commissioner.** "Commissioner" means the commissioner of human services or any employee of the Department of Human Services to whom the commissioner has delegated authority regarding children under the commissioner's guardianship.

Subd. 7. **Guardianship.** "Guardianship" has the meaning given in section 259A.01, subdivision 17; 260C.325; or 260C.515, subdivision 3.

Subd. 8. **Prospective adoptive parent.** "Prospective adoptive parent" means an individual who may become an adopting parent regardless of whether the individual has an adoption study approving the individual for adoption, but who has not signed an adoption placement agreement.

Sec. 30. **[260C.605] REASONABLE EFFORTS TO FINALIZE AN ADOPTION.**

Subdivision 1. **Requirements.** (a) Reasonable efforts to finalize the adoption of a child under the guardianship of the commissioner shall be made by the responsible social services agency responsible for permanency planning for the child.

(b) Reasonable efforts to make a placement in a home according to the placement considerations under section 260C.212, subdivision 2, with a relative or foster parent who will commit to being the permanent resource for the child in the event the child cannot be reunified with a parent are required under section 260.012 and may be made concurrently with reasonable, or if the child is an Indian child, active efforts to reunify the child with the parent.

(c) Reasonable efforts under paragraph (b) must begin as soon as possible when the child is in foster care under this chapter, but not later than the hearing required under section 260C.204.

(d) Reasonable efforts to finalize the adoption of the child include:

- (1) using age-appropriate engagement strategies to plan for adoption with the child;
- (2) identifying an appropriate prospective adoptive parent for the child by updating the child's identified needs using the factors in section 260C.212, subdivision 2;
- (3) making an adoptive placement that meets the child's needs by:
  - (i) completing or updating the relative search required under section 260C.221 and giving notice of the need for an adoptive home for the child to:
    - (A) relatives who have kept the agency or the court apprised of their whereabouts and who have indicated an interest in adopting the child; or
    - (B) relatives of the child who are located in an updated search:
      - (ii) an updated search is required whenever:
        - (A) there is no identified prospective adoptive placement for the child notwithstanding a finding by the court that the agency made diligent efforts under section 260C.221, in a hearing required under section 260C.202;
        - (B) the child is removed from the home of an adopting parent; or
        - (C) the court determines a relative search by the agency is in the best interests of the child;
        - (iii) engaging child's foster parent and the child's relatives identified as an adoptive resource during the search conducted under section 260C.221, to commit to being the prospective adoptive parent of the child; or
        - (iv) when there is no identified prospective adoptive parent:
          - (A) registering the child on the state adoption exchange as required in section 259.75 unless the agency documents to the court an exception to placing the child on the state adoption exchange reported to the commissioner;
          - (B) reviewing all families with approved adoption home studies associated with the responsible social services agency;
          - (C) presenting the child to adoption agencies and adoption personnel who may assist with finding an adoptive home for the child;
          - (D) using newspapers and other media to promote the particular child;
          - (E) using a private agency under grant contract with the commissioner to provide adoption services for intensive child-specific recruitment efforts; and
          - (F) making any other efforts or using any other resources reasonably calculated to identify a prospective adoption parent for the child;
- (4) updating and completing the social and medical history required under sections 259.43 and 260C.609;
- (5) making, and keeping updated, appropriate referrals required by section 260.851, the Interstate Compact on the Placement of Children;

(6) giving notice regarding the responsibilities of an adoptive parent to any prospective adoptive parent as required under section 259.35;

(7) offering the adopting parent the opportunity to apply for or decline adoption assistance under chapter 259A;

(8) certifying the child for adoption assistance, assessing the amount of adoption assistance, and ascertaining the status of the commissioner's decision on the level of payment if the adopting parent has applied for adoption assistance;

(9) placing the child with siblings. If the child is not placed with siblings, the agency must document reasonable efforts to place the siblings together, as well as the reason for separation. The agency may not cease reasonable efforts to place siblings together for final adoption until the court finds further reasonable efforts would be futile or that placement together for purposes of adoption is not in the best interests of one of the siblings; and

(10) working with the adopting parent to file a petition to adopt the child and with the court administrator to obtain a timely hearing to finalize the adoption.

Subd. 2. **No waiver.** (a) The responsible social services agency shall make reasonable efforts to recruit, assess, and match an adoptive home for any child under the guardianship of the commissioner and reasonable efforts shall continue until an adoptive placement is made and adoption finalized or until the child is no longer under the guardianship of the commissioner.

(b) A child of any age who is under the guardianship of the commissioner and is legally available for adoption may not refuse or waive the responsible social services agency's reasonable efforts to recruit, identify, and place the child in an adoptive home required under this section. The agency has an ongoing responsibility to work with the child to explore the child's opportunities for adoption, and what adoption means for the child, and may not accept a child's refusal to consider adoption as an option.

(c) The court may not relieve or otherwise order the responsible social services agency to cease fulfilling the responsible social services agency's duty regarding reasonable efforts to recruit, identify, and place the child in an adoptive home.

**Sec. 31. [260C.607] REVIEW OF PROGRESS TOWARD ADOPTION.**

Subdivision 1. **Review hearings.** (a) The court shall conduct a review of the responsible social services agency's reasonable efforts to finalize adoption for any child under the guardianship of the commissioner and of the progress of the case toward adoption at least every 90 days after the court issues an order that the commissioner is the guardian of the child.

(b) The review of progress toward adoption shall continue notwithstanding that an appeal is made of the order for guardianship.

(c) The agency's reasonable efforts to finalize the adoption must continue during the pendency of the appeal and all progress toward adoption shall continue except that the court may not finalize an adoption while the appeal is pending.

Subd. 2. **Notice.** Notice of review hearings shall be given by the court to:

(1) the responsible social services agency;

(2) the child, if the child is age ten and older;

(3) the child's guardian ad litem;

(4) relatives of the child who have kept the court informed of their whereabouts as required in section 260C.221 and who have responded to the agency's notice under section 260C.221, indicating a willingness to provide an adoptive home for the child unless the relative has been previously ruled out by the court as a suitable foster parent or permanency resource for the child;

(5) the current foster or adopting parent of the child;

(6) any foster or adopting parents of siblings of the child; and

(7) the Indian child's tribe.

Subd. 3. **Right to participate.** Any individual or entity listed in subdivision 2 may participate in the continuing reviews conducted under this section. No other individual or entity is required to be given notice or to participate in the reviews unless the court specifically orders that notice be given or participation in the reviews be required.

Subd. 4. **Content of review.** (a) The court shall review:

(1) the agency's reasonable efforts under section 260C.605 to finalize an adoption for the child as appropriate to the stage of the case; and

(2) the child's current out-of-home placement plan required under section 260C.212, subdivision 1, to ensure the child is receiving all services and supports required to meet the child's needs as they relate to the child's:

(i) placement;

(ii) visitation and contact with siblings;

(iii) visitation and contact with relatives;

(iv) medical, mental, and dental health; and

(v) education.

(b) When the child is age 16 and older, and as long as the child continues in foster care, the court shall also review the agency's planning for the child's independent living after leaving foster care including how the agency is meeting the requirements of section 260C.212, subdivision 1, paragraph (c), clause (11). The court shall use the review requirements of section 260C.203, in any review conducted under this paragraph.

Subd. 5. **Required placement by responsible social services agency.** (a) No petition for adoption shall be filed for a child under the guardianship of the commissioner unless the child sought to be adopted has been placed for adoption with the adopting parent by the responsible social services agency. The court may order the agency to make an adoptive placement using standards and procedures under subdivision 6.

(b) Any relative or the child's foster parent who believes the responsible agency has not reasonably considered their request to be considered for adoptive placement as required under section 260C.212, subdivision 2, and who wants to be considered for adoptive placement of the child shall bring their request for consideration to the attention of the court during a review required under this section. The child's guardian ad litem and the child may also bring a request for a relative or the child's foster parent to be considered for adoptive placement. After hearing from the agency, the court may order the agency to take appropriate action regarding the relative's or foster parent's request for consideration under section 260C.212, subdivision 2, paragraph (b).

Subd. 6. **Motion and hearing to order adoptive placement.** (a) At any time after the district court orders the child under the guardianship of the commissioner of human services, but not later than 30 days after receiving notice required under section 260C.613, subdivision 1, paragraph (c), that the agency has made an adoptive placement, a relative or the child's foster parent may file a motion for an order for adoptive placement of a child who is under the guardianship of the commissioner if the relative or the child's foster parent:

(1) has an adoption home study under section 259.41 approving the relative or foster parent for adoption and has been a resident of Minnesota for at least six months before filing the motion; the court may waive the residency requirement for the moving party if there is a reasonable basis to do so; or

(2) is not a resident of Minnesota, but has an approved adoption home study by an agency licensed or approved to complete an adoption home study in the state of the individual's residence and the study is filed with the motion for adoptive placement.

(b) The motion shall be filed with the court conducting reviews of the child's progress toward adoption under this section. The motion and supporting documents must make a prima facie showing that the agency has been unreasonable in failing to make the requested adoptive placement. The motion must be served according to the requirements for motions under the Minnesota Rules of Juvenile Protection Procedure and shall be made on all individuals and entities listed in subdivision 2.

(c) If the motion and supporting documents do not make a prima facie showing for the court to determine whether the agency has been unreasonable in failing to make the requested adoptive placement, the court shall dismiss the motion. If the court determines a prima facie basis is made, the court shall set the matter for evidentiary hearing.

(d) At the evidentiary hearing the responsible social services agency shall proceed first with evidence about the reason for not making the adoptive placement proposed by the moving party. The moving party then has the burden of proving by a preponderance of the evidence that the agency has been unreasonable in failing to make the adoptive placement.

(e) At the conclusion of the evidentiary hearing, if the court finds that the agency has been unreasonable in failing to make the adoptive placement and that the relative or the child's foster parent is the most suitable adoptive home to meet the child's needs using the factors in section 260C.212, subdivision 2, paragraph (b), the court may order the responsible social services agency to make an adoptive placement in the home of the relative or the child's foster parent.

(f) If, in order to ensure that a timely adoption may occur, the court orders the responsible social services agency to make an adoptive placement under this subdivision, the agency shall:

(1) make reasonable efforts to obtain a fully executed adoption placement agreement;

(2) work with the moving party regarding eligibility for adoption assistance as required under chapter 259A; and

(3) if the moving party is not a resident of Minnesota, timely refer the matter for approval of the adoptive placement through the Interstate Compact on the Placement of Children.

(g) Denial or granting of a motion for an order for adoptive placement after an evidentiary hearing is an order which may be appealed by the responsible social services agency, the moving party, the child, when age ten or over, the child's guardian ad litem, and any individual who had a fully executed adoption placement agreement regarding the child at the time the motion was filed if the court's order has the effect of terminating the adoption placement agreement. An appeal shall be conducted according to the requirements of the Rules of Juvenile Protection Procedure.

Subd. 7. **Changing adoptive plan when parent has consented to adoption.** When the child's parent has consented to adoption under section 260C.515, subdivision 3, only the person identified by the parent and agreed to by the agency as the prospective adoptive parent qualifies for adoptive placement of the child until the responsible social services agency has reported to the court and the court has found in a hearing under this section that it is not possible to finalize an adoption by the identified prospective adoptive parent within 12 months of the execution of the consent to adopt under section 260C.515, subdivision 3, unless the responsible social services agency certifies that the failure to finalize is not due to either an action or a failure to act by the prospective adoptive parent.

Subd. 8. **Timing modified.** (a) The court may review the responsible social services agency's reasonable efforts to finalize an adoption more frequently than every 90 days whenever a more frequent review would assist in finalizing the adoption.

(b) In appropriate cases, the court may review the responsible social services agency's reasonable efforts to finalize an adoption less frequently than every 90 days. The court shall not find it appropriate to review progress toward adoption less frequently than every 90 days except when:

(1) the court has approved the agency's reasonable efforts to recruit, identify, and place the child in an adoptive home on a continuing basis for at least 24 months after the court has issued the order for guardianship;

(2) the child is at least 16 years old; and

(3) the child's guardian ad litem agrees that review less frequently than every 90 days is in the child's best interests.

(c) In no event shall the court's review be less frequent than every six months.

**Sec. 32. [260C.609] SOCIAL AND MEDICAL HISTORY.**

(a) The responsible social services agency shall work with the birth family of the child, foster family, medical and treatment providers, and the child's school to ensure there is a detailed, thorough, and currently up-to-date social and medical history of the child as required under section 259.43 on the forms required by the commissioner.

(b) When the child continues in foster care, the agency's reasonable efforts to complete the history shall begin no later than the permanency progress review hearing required under section 260C.204 or six months after the child's placement in foster care.

(c) The agency shall thoroughly discuss the child's history with the adopting parent of the child and shall give a copy of the report of the child's social and medical history to the adopting parent. A copy of the child's social and medical history may also be given to the child as appropriate.

(d) The report shall not include information that identifies birth relatives. Redacted copies of all the child's relevant evaluations, assessments, and records must be attached to the social and medical history.

**Sec. 33. [260C.611] ADOPTION STUDY REQUIRED.**

An adoption study under section 259.41 approving placement of the child in the home of the prospective adoptive parent shall be completed before placing any child under the guardianship of the commissioner in a home for adoption. If a prospective adoptive parent has previously held a foster care license or adoptive home study, any update necessary to the foster care license, or updated or new adoptive home study, if not completed by the licensing authority responsible for the previous license or home study, shall include collateral information from the previous licensing or approving agency, if available.

Sec. 34. **[260C.613] SOCIAL SERVICES AGENCY AS COMMISSIONER'S AGENT.**

**Subdivision 1. Adoptive placement decisions.** (a) The responsible social services agency has exclusive authority to make an adoptive placement of a child under the guardianship of the commissioner. The child shall be considered placed for adoption when the adopting parent, the agency, and the commissioner have fully executed an adoption placement agreement on the form prescribed by the commissioner.

(b) The responsible social services agency shall use an individualized determination of the child's current needs pursuant to section 260C.212, subdivision 2, paragraph (b), to determine the most suitable adopting parent for the child in the child's best interests.

(c) The responsible social services agency shall notify the court and parties entitled to notice under section 260C.607, subdivision 2, when there is a fully executed adoption placement agreement for the child.

(d) In the event an adoption placement agreement terminates, the responsible social services agency shall notify the court, the parties entitled to notice under section 260C.607, subdivision 2, and the commissioner that the agreement and the adoptive placement have terminated.

**Subd. 2. Disclosure of data permitted to identify adoptive parent.** The responsible social services agency may disclose private data, as defined in section 13.02, to prospective adoptive parents for the purpose of identifying an adoptive parent willing and able to meet the child's needs as outlined in section 260C.212, subdivision 2, paragraph (b).

**Subd. 3. Siblings placed together.** The responsible social services agency shall place siblings together for adoption according to section 260.012, paragraph (e), clause (4), unless:

(1) the court makes findings required under section 260C.617; and

(2) the court orders that the adoption or progress toward adoption of the child under the court's jurisdiction may proceed notwithstanding that the adoption will result in siblings being separated.

**Subd. 4. Other considerations.** Placement of a child cannot be delayed or denied based on the race, color, or national origin of the prospective parent or the child.

**Subd. 5. Required record keeping.** The responsible social services agency shall document, in the records required to be kept under section 259.79, the reasons for the adoptive placement decision regarding the child, including the individualized determination of the child's needs based on the factors in section 260C.212, subdivision 2, paragraph (b), and the assessment of how the selected adoptive placement meets the identified needs of the child. The responsible social services agency shall retain in the records required to be kept under section 259.79, copies of all out-of-home placement plans made since the child was ordered under guardianship of the commissioner and all court orders from reviews conducted pursuant to section 260C.607.

**Subd. 6. Death notification.** (a) The agency shall inform the adoptive parents that the adoptive parents of an adopted child under age 19 or an adopted person age 19 or older may maintain a current address on file with the agency and indicate a desire to be notified if the agency receives information of the death of a birth parent. The agency shall notify birth parents of the child's death and the cause of death, if known, provided that the birth parents desire notice and maintain current addresses on file with the agency. The agency shall inform birth parents entitled to notice under section 259.27, that they may designate individuals to notify the agency if a birth parent dies and that the agency receiving information of the birth parent's death will share the information with adoptive parents, if the adopted person is under age 19, or an adopted person age 19 or older who has indicated a desire to be notified of the death of a birth parent and who maintains a current address on file with the agency.

(b) Notice to a birth parent that a child has died or to the adoptive parents or an adopted person age 19 or older that a birth parent has died shall be provided by an employee of the agency through personal and confidential contact, but not by mail.

Subd. 7. **Terminal illness notification.** If a birth parent or the child is terminally ill, the responsible social services agency shall inform the adoptive parents and birth parents of a child who is adopted that the birth parents, the adoptive parents of an adopted person under age 19, or an adopted person age 19 or older may request to be notified of the terminal illness. The agency shall notify the other parties if a request is received under this subdivision and upon a party's request the agency shall share information regarding a terminal illness with the adoptive or birth parents or an adopted person age 19 or older.

Subd. 8. **Postadoption search services.** The responsible social services agency shall respond to requests from adopted persons age 19 years and over, adoptive parents of a minor child, and birth parents for social and medical history and genetic health conditions of the adopted person's birth family and genetic sibling information according to section 259.83.

Sec. 35. **[260C.615] DUTIES OF COMMISSIONER.**

Subdivision 1. **Duties.** (a) For any child who is under the guardianship of the commissioner, the commissioner has the exclusive rights to consent to:

(1) the medical care plan for the treatment of a child who is at imminent risk of death or who has a chronic disease that, in a physician's judgment, will result in the child's death in the near future including a physician's order not to resuscitate or intubate the child; and

(2) the child donating a part of the child's body to another person while the child is living; the decision to donate a body part under this clause shall take into consideration the child's wishes and the child's culture.

(b) In addition to the exclusive rights under paragraph (a), the commissioner has a duty to:

(1) process any complete and accurate request for home study and placement through the Interstate Compact on the Placement of Children under section 260.851;

(2) process any complete and accurate application for adoption assistance forwarded by the responsible social services agency according to chapter 259A;

(3) complete the execution of an adoption placement agreement forwarded to the commissioner by the responsible social services agency and return it to the agency in a timely fashion; and

(4) maintain records as required in chapter 259.

Subd. 2. **Duties not reserved.** All duties, obligations, and consents not specifically reserved to the commissioner in this section are delegated to the responsible social services agency.

Sec. 36. **[260C.617] SIBLING PLACEMENT.**

(a) The responsible social services agency shall make every effort to place siblings together for adoption.

(b) The court shall review any proposal by the responsible social services agency to separate siblings for purposes of adoption.

(c) If there is venue in more than one county for matters regarding siblings who are under the guardianship of the commissioner, the judges conducting reviews regarding the siblings shall communicate with each other about the siblings' needs and, where appropriate, shall conduct review hearings in a manner that ensures coordinated planning by agencies involved in decision making for the siblings.

(d) After notice to the individuals and entities listed in section 260C.627, the foster or prospective adoptive parent of the child, and any foster, adopting, or adoptive parents of the child's siblings, or relatives with permanent legal and physical custody of the child's sibling, and upon hearing, the court may determine that a child under the court's jurisdiction may be separated from the child's sibling for adoption when:

(1) the responsible social services agency has made reasonable efforts to place the siblings together, and after finding reasonable efforts have been made, the court finds further efforts would significantly delay the adoption of one or more of the siblings and are therefore not in the best interests of one or more of the siblings; or

(2) the court determines it is not in the best interests of one or more of the siblings to be placed together after reasonable efforts by the responsible social services agency to place the siblings together.

Sec. 37. **[260C.619] COMMUNICATION AND CONTACT AGREEMENTS.**

(a) An adopting parent and a relative or foster parent of the child may enter into an agreement regarding communication with or contact between the adopted child, adopting parent, and the relative or foster parent. An agreement may be entered between:

(1) an adopting parent and a birth parent;

(2) an adopting parent and any relative or foster parent with whom the child resided before being adopted; and

(3) an adopting parent and the parent or legal custodian of a sibling of the child, if the sibling is a minor, or any adult sibling of the child.

(b) An agreement regarding communication with or contact between the child, adoptive parents, and a relative or foster parent, is enforceable when the terms of the agreement are contained in a written court order. The order must be issued before or at the time of the granting of the decree of adoption. The order granting the communication, contact, or visitation shall be filed in the adoption file.

(c) The court shall mail a certified copy of the order to the parties to the agreement or their representatives at the addresses provided by the parties to the agreement. Service shall be completed in a manner that maintains the confidentiality of confidential information.

(d) The court shall not enter a proposed order unless the terms of the order have been approved in writing by the prospective adoptive parents, the birth relative, the foster parent, or the birth parent or legal custodian of the child's sibling who desires to be a party to the agreement, and the responsible social services agency.

(e) An agreement under this section need not disclose the identity of the parties to be legally enforceable and when the identity of the parties to the agreement is not disclosed, data about the identities in the adoption file shall remain confidential.

(f) The court shall not enter a proposed order unless the court finds that the communication or contact between the minor adoptee, the adoptive parents, and the relative, foster parents, or siblings as agreed upon and contained in the proposed order, would be in the child's best interests.

(g) Failure to comply with the terms of an order regarding communication or contact that has been entered by the court under this section is not grounds for:

(1) setting aside an adoption decree; or

(2) revocation of a written consent to an adoption after that consent has become irrevocable.

(h) An order regarding communication or contact entered under this section may be enforced by filing a motion in the existing adoption file with the court that entered the contact agreement. Any party to the communication or contact order or the child who is the subject of the order has standing to file the motion to enforce the order. The prevailing party may be awarded reasonable attorney fees and costs.

(i) The court shall not modify an order under this section unless it finds that the modification is necessary to serve the best interests of the child, and:

(1) the modification is agreed to by the parties to the agreement; or

(2) exceptional circumstances have arisen since the order was entered that justified modification of the order.

Sec. 38. **[260C.621] JURISDICTION AND VENUE.**

Subdivision 1. **Jurisdiction.** (a) The juvenile court has original jurisdiction for all adoption proceedings involving the adoption of a child under the guardianship of the commissioner, including when the commissioner approves the placement of the child through the Interstate Compact on the Placement of Children under section 260.851 for adoption outside the state of Minnesota and an adoption petition is filed in Minnesota.

(b) The receiving state also has jurisdiction to conduct an adoption proceeding for a child under the guardianship of the commissioner when the adopting home was approved by the receiving state through the interstate compact.

Subd. 2. **Venue.** (a) Venue for the adoption of a child committed to the guardianship of the commissioner of human services shall be the court conducting reviews in the matter according to section 260C.607.

(b) Upon request of the responsible social services agency, the court conducting reviews under section 260C.607 may order that filing an adoption petition involving a child under the guardianship of the commissioner be permitted in the county where the adopting parent resides upon determining that:

(1) there is no motion for an order for adoptive placement of the child that has been filed or is reasonably anticipated by the responsible social services agency to be filed; and

(2) filing the petition in the adopting parent's county of residence will expedite the proceedings and serve the best interests of the child.

(c) When the court issues an order under paragraph (b), a copy of the court order shall be filed together with the adoption petition in the court of the adopting parent's county of residence.

(d) The court shall notify the court conducting reviews under section 260C.607 when the adoption is finalized so that the court conducting reviews under section 260C.607 may close its jurisdiction and the court record, including the court's electronic case record, in the county conducting the reviews, shall reflect that adoption of the child was finalized.

Sec. 39. **[260C.623] ADOPTION PETITION.**

Subdivision 1. **Who may petition.** (a) The responsible social services agency may petition for the adopting parent to adopt a child who is under the guardianship of the commissioner. The petition shall contain or have attached a statement certified by the adopting parent that the adopting parent desires that the relationship of parent and child be established between the adopting parent and the child and that adoption is in the best interests of the child.

(b) The adopting parent may petition the court for adoption of the child.

(c) An adopting parent must be at least 21 years of age at the time the adoption petition is filed unless the adopting parent is an individual related to the child, as defined by section 245A.02, subdivision 13.

(d) The petition may be filed in Minnesota by an adopting parent who resides within or outside the state.

Subd. 2. **Time for filing petition.** (a) An adoption petition shall be filed not later than nine months after the date of the fully executed adoption placement agreement unless the court finds that:

(1) the time for filing a petition be extended because of the child's special needs as defined under title IV-E of the federal Social Security Act, United States Code, title 42, section 672; or

(2) based on a written plan for completing filing of the petition, including a specific timeline, to which the adopting parent has agreed, the time for filing a petition be extended long enough to complete the plan because an extension is in the best interests of the child and additional time is needed for the child to adjust to the adoptive home.

(b) If an adoption petition is not filed within nine months of the execution of the adoption placement agreement as required under section 260C.613, subdivision 1, and after giving the adopting parent written notice of its request together with the date and time of the hearing set to consider its report, the responsible social services agency shall file a report requesting an order for one of the following:

(1) that the time for filing a petition be extended because of the child's special needs as defined under title IV-E of the federal Social Security Act, United States Code, title 42, section 673;

(2) that, based on a written plan for completing filing of the petition, including a specific timeline, to which the adopting parent has agreed, the time for filing a petition can be extended long enough to complete the plan because an extension is in the best interests of the child and additional time is needed for the child to adjust to the adoptive home; or

(3) that the child can be removed from the adopting home.

(c) At the conclusion of the review, the court shall issue findings, appropriate orders for the parties to take action or steps required to advance the case toward a finalized adoption, and set the date and time for the next review hearing.

Subd. 3. **Requirements of petition.** (a) The petition shall be captioned in the legal name of the child as that name is reflected on the child's birth record prior to adoption and shall be entitled "Petition to Adopt Child under the Guardianship of the Commissioner of Human Services." The actual name of the child shall be supplied to the court by the responsible social services agency if unknown to the individual with whom the agency has made the adoptive placement.

(b) The adoption petition shall be verified as required in section 260C.141, subdivision 4, and, if filed by the responsible social services agency, signed and approved by the county attorney.

(c) The petition shall state:

(1) the full name, age, and place of residence of the adopting parent;

(2) if the adopting parents are married, the date and place of marriage;

(3) the date the adopting parent acquired physical custody of the child;

(4) the date of the adoptive placement by the responsible social services agency;

(5) the date of the birth of the child, if known, and the county, state, and country where born;

(6) the name to be given the child, if a change of name is desired;

(7) the description and value of any real or personal property owned by the child;

(8) the relationship of the adopting parent to the child prior to adoptive placement, if any;

(9) whether the Indian Child Welfare Act does or does not apply; and

(10) the name and address of:

(i) the child's guardian ad litem;

(ii) the adoptee, if age ten or older;

(iii) the child's Indian tribe, if the child is an Indian child; and

(iv) the responsible social services agency.

(d) A petition may ask for the adoption of two or more children.

(e) If a petition is for adoption by a married person, both spouses must sign the petition indicating willingness to adopt the child and the petition must ask for adoption by both spouses unless the court approves adoption by only one spouse when spouses do not reside together or for other good cause shown.

(f) If the petition is for adoption by a person residing outside the state, the adoptive placement must have been approved by the state where the person is a resident through the Interstate Compact on the Placement of Children, sections 260.851 to 260.92.

**Subd. 4. Attachments to the petition.** The following must be filed with the petition:

(1) the adoption study report required under section 259.41;

(2) the social and medical history required under sections 259.43 and 260C.609; and

(3) a document prepared by the petitioner that establishes who must be given notice under section 260C.627, subdivision 1, that includes the names and mailing addresses of those to be served by the court administrator.

Sec. 40. **[260C.625] DOCUMENTS FILED BY SOCIAL SERVICES AGENCY.**

(a) The following shall be filed by the responsible social services agency prior to finalization of the adoption:

(1) a certified copy of the child's birth record;

(2) a certified copy of the findings and order terminating parental rights or order accepting the parent's consent to adoption under section 260C.515, subdivision 3, and for guardianship to the commissioner;

(3) a copy of any communication or contact agreement under section 260C.619;

(4) certification that the Minnesota Fathers' Adoption Registry has been searched which requirement may be met according to the requirements of the Minnesota Rules of Adoption Procedure, Rule 32.01, subdivision 2;

(5) the original of each consent to adoption required, if any, unless the original was filed in the permanency proceeding conducted under section 260C.515, subdivision 3, and the order filed under clause (2) has a copy of the consent attached; and

(6) the postplacement assessment report required under section 259.53, subdivision 2.

(b) The responsible social services agency shall provide any known aliases of the child to the court.

Sec. 41. **[260C.627] NOTICE OF ADOPTION PROCEEDINGS.**

Subdivision 1. **To whom given.** (a) Notice of the adoption proceedings shall not be given to any parent whose rights have been terminated or who has consented to the adoption of the child under this chapter.

(b) Notice of the adoption proceedings shall be given to the following:

(1) the child's tribe if the child is an Indian child;

(2) the responsible social services agency;

(3) the child's guardian ad litem;

(4) the child, if the child is age ten or over;

(5) the child's attorney; and

(6) the adopting parent.

(c) Notice of a hearing regarding the adoption petition shall have a copy of the petition attached unless service of the petition has already been accomplished.

Subd. 2. **Method of service.** Notice of adoption proceedings for a child under the guardianship of the commissioner may be served by United States mail or any other method approved by the Minnesota Rules of Adoption Procedure.

Sec. 42. **[260C.629] FINALIZATION HEARING.**

Subdivision 1. **Consent.** (a) A parent whose rights to the child have not been terminated must consent to the adoption of the child. A parent may consent to the adoption of the child under section 260C.515, subdivision 3, and that consent shall be irrevocable upon acceptance by the court except as otherwise provided in section 260C.515, subdivision 3, clause (2)(i). A parent of an Indian child may consent to the adoption of the child according to United States Code, title 25, section 1913, and that consent may be withdrawn for any reason at any time before the entry of a final decree of adoption.

(b) When the child to be adopted is age 14 years or older, the child's written consent to adoption by the adopting parent is required.

(c) Consent by the responsible social services agency or the commissioner is not required because the adoptive placement has been made by the responsible social services agency.

Subd. 2. **Required documents.** In order to issue a decree for adoption and enter judgment accordingly, the court must have the following documents in the record:

(1) original birth record of the child;

(2) adoption study report including a background study required under section 259.41;

(3) a certified copy of the findings and order terminating parental rights or order accepting the parent's consent to adoption under section 260C.515, subdivision 3, and for guardianship to the commissioner;

(4) any consents required under subdivision 1;

(5) child's social and medical history under section 260C.609;

(6) postplacement assessment report required under section 259.53, subdivision 2, unless waived by the court on the record at a hearing under section 260C.607; and

(7) report from the child's guardian ad litem.

Sec. 43. **[260C.631] JUDGMENT AND DECREE.**

(a) After taking testimony from the responsible social services agency, which may be by telephone or affidavit if the court has transferred venue of the matter to a county not conducting the posttermination of parental rights reviews under section 260C.607, and the adopting parent, if the court finds that it is in the best interests of the child that the petition be granted, a decree of adoption shall be issued ordering that the child to be adopted shall be the child of the adopting parent. In the decree, the court may change the name of the adopted child, if a name change is requested.

(b) After the decree is granted, the court administrator shall mail a copy of the decree to the commissioner of human services.

Sec. 44. **[260C.633] ADOPTION DENIED.**

(a) If the court is not satisfied that the proposed adoption is in the best interests of the child to be adopted, the court shall deny the petition, and order the responsible social services agency to take appropriate action for the protection and safety of the child. If venue has been transferred under section 260C.621, subdivision 2, the court denying the petition shall notify the court originally conducting the guardianship reviews under section 260C.607.

(b) The court responsible for conducting reviews under section 260C.607 shall set a hearing within 30 days of receiving notice of denial of the petition.

(c) Any appeal of the denial of an adoption petition under this section shall be made according to the requirements of the Minnesota Rules of Adoption Procedure.

Sec. 45. **[260C.635] EFFECT OF ADOPTION.**

Subdivision 1. **Legal effect.** (a) Upon adoption, the adopted child becomes the legal child of the adopting parent and the adopting parent becomes the legal parent of the child with all the rights and duties between them of a birth parent and child.

(b) The child shall inherit from the adoptive parent and the adoptive parent's relatives the same as though the child were the birth child of the parent, and in case of the child's death intestate, the adoptive parent and the adoptive parent's relatives shall inherit the child's estate as if the child had been the adoptive parent's birth child.

(c) After a decree of adoption is entered, the birth parents or previous legal parents of the child shall be relieved of all parental responsibilities for the child except child support that has accrued to the date of the order for guardianship to the commissioner which continues to be due and owing. The child's birth or previous legal parent shall not exercise or have any rights over the adopted child or the adopted child's property, person, privacy, or reputation.

(d) The adopted child shall not owe the birth parents or the birth parent's relatives any legal duty nor shall the adopted child inherit from the birth parents or kindred unless otherwise provided for in a will of the birth parent or kindred.

(e) Upon adoption, the court shall complete a certificate of adoption form and mail the form to the Office of the State Registrar at the Minnesota Department of Health. Upon receiving the certificate of adoption, the state registrar shall register a replacement vital record in the new name of the adopted child as required under section 144.218.

Subd. 2. **Enrollment in American Indian tribe.** Notwithstanding the provisions of subdivision 1, the adoption of a child whose birth parent or parents are enrolled in an American Indian tribe shall not change the child's enrollment in that tribe.

Subd. 3. **Communication or contact agreements.** This section does not prohibit birth parents, relatives, birth or legal siblings, and adoptive parents from entering a communication or contact agreement under section 260C.619.

Sec. 46. **[260C.637] ACCESS TO ORIGINAL BIRTH RECORD INFORMATION.**

An adopted person may ask the commissioner of health to disclose the information on the adopted person's original birth record according to section 259.89.

Sec. 47. Minnesota Statutes 2010, section 541.04, is amended to read:

**541.04 JUDGMENTS, TEN ~~OR 20~~ YEARS.**

No action shall be maintained upon a judgment or decree of a court of the United States, or of any state or territory thereof, unless begun within ten years after the entry of such judgment ~~or, in the case of a judgment for child support, including a judgment by operation of law, unless begun within 20 years after entry of the judgment.~~

**EFFECTIVE DATE.** The amendments to this section are effective retroactively from April 15, 2010, the date the language stricken in this section was finally enacted.

Sec. 48. Minnesota Statutes 2010, section 548.09, subdivision 1, is amended to read:

Subdivision 1. **Entry and docketing; survival of judgment.** Except as provided in section 548.091, every judgment requiring the payment of money shall be entered by the court administrator when ordered by the court and will be docketed by the court administrator upon the filing of an affidavit as provided in subdivision 2. Upon a transcript of the docket being filed with the court administrator in any other county, the court administrator shall also docket it. From the time of docketing the judgment is a lien, in the amount unpaid, upon all real property in the county then or thereafter owned by the judgment debtor, but it is not a lien upon registered land unless it is also recorded pursuant to sections 508.63 and 508A.63. The judgment survives, and the lien continues, for ten years after its entry ~~or, in the case of a judgment for child support, including a judgment by operation of law, for 20 years after its entry.~~ Child support judgments may be renewed pursuant to section 548.091.

**EFFECTIVE DATE.** The amendments to this section are effective retroactively from April 15, 2010, the date the language stricken in this section was finally enacted.

Sec. 49. Minnesota Statutes 2010, section 626.556, subdivision 2, is amended to read:

Subd. 2. **Definitions.** As used in this section, the following terms have the meanings given them unless the specific content indicates otherwise:

(a) "Family assessment" means a comprehensive assessment of child safety, risk of subsequent child maltreatment, and family strengths and needs that is applied to a child maltreatment report that does not allege substantial child endangerment. Family assessment does not include a determination as to whether child maltreatment occurred but does determine the need for services to address the safety of family members and the risk of subsequent maltreatment.

(b) "Investigation" means fact gathering related to the current safety of a child and the risk of subsequent maltreatment that determines whether child maltreatment occurred and whether child protective services are needed. An investigation must be used when reports involve substantial child endangerment, and for reports of maltreatment in facilities required to be licensed under chapter 245A or 245B; under sections 144.50 to 144.58 and 241.021; in a school as defined in sections 120A.05, subdivisions 9, 11, and 13, and 124D.10; or in a nonlicensed personal care provider association as defined in sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

(c) "Substantial child endangerment" means a person responsible for a child's care, and in the case of sexual abuse includes a person who has a significant relationship to the child as defined in section 609.341, or a person in a position of authority as defined in section 609.341, who by act or omission commits or attempts to commit an act against a child under their care that constitutes any of the following:

- (1) egregious harm as defined in section 260C.007, subdivision 14;
- (2) sexual abuse as defined in paragraph (d);
- (3) abandonment under section 260C.301, subdivision 2;
- (4) neglect as defined in paragraph (f), clause (2), that substantially endangers the child's physical or mental health, including a growth delay, which may be referred to as failure to thrive, that has been diagnosed by a physician and is due to parental neglect;
- (5) murder in the first, second, or third degree under section 609.185, 609.19, or 609.195;
- (6) manslaughter in the first or second degree under section 609.20 or 609.205;

- (7) assault in the first, second, or third degree under section 609.221, 609.222, or 609.223;
- (8) solicitation, inducement, and promotion of prostitution under section 609.322;
- (9) criminal sexual conduct under sections 609.342 to 609.3451;
- (10) solicitation of children to engage in sexual conduct under section 609.352;
- (11) malicious punishment or neglect or endangerment of a child under section 609.377 or 609.378;
- (12) use of a minor in sexual performance under section 617.246; or

(13) parental behavior, status, or condition which mandates that the county attorney file a termination of parental rights petition under section 260C.301, subdivision 3, paragraph (a).

(d) "Sexual abuse" means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child, as defined in section 609.341, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of section 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual abuse also includes any act which involves a minor which constitutes a violation of prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes threatened sexual abuse.

(e) "Person responsible for the child's care" means (1) an individual functioning within the family unit and having responsibilities for the care of the child such as a parent, guardian, or other person having similar care responsibilities, or (2) an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, other school employees or agents, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching, and coaching.

(f) "Neglect" means the commission or omission of any of the acts specified under clauses (1) to (9), other than by accidental means:

(1) failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter, health, medical, or other care required for the child's physical or mental health when reasonably able to do so;

(2) failure to protect a child from conditions or actions that seriously endanger the child's physical or mental health when reasonably able to do so, including a growth delay, which may be referred to as a failure to thrive, that has been diagnosed by a physician and is due to parental neglect;

(3) failure to provide for necessary supervision or child care arrangements appropriate for a child after considering factors as the child's age, mental ability, physical condition, length of absence, or environment, when the child is unable to care for the child's own basic needs or safety, or the basic needs or safety of another child in their care;

(4) failure to ensure that the child is educated as defined in sections 120A.22 and 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's child with sympathomimetic medications, consistent with section 125A.091, subdivision 5;

(5) nothing in this section shall be construed to mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care; except that a parent, guardian, or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report if a lack of medical care may cause serious danger to the child's health. This section does not impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care, a duty to provide that care;

(6) prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance;

(7) "medical neglect" as defined in section 260C.007, subdivision 6, clause (5);

(8) chronic and severe use of alcohol or a controlled substance by a parent or person responsible for the care of the child that adversely affects the child's basic needs and safety; or

(9) emotional harm from a pattern of behavior which contributes to impaired emotional functioning of the child which may be demonstrated by a substantial and observable effect in the child's behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development, with due regard to the child's culture.

(g) "Physical abuse" means any physical injury, mental injury, or threatened injury, inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical or mental injury that cannot reasonably be explained by the child's history of injuries, or any aversive or deprivation procedures, or regulated interventions, that have not been authorized under section 121A.67 or 245.825.

Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian which does not result in an injury. Abuse does not include the use of reasonable force by a teacher, principal, or school employee as allowed by section 121A.582. Actions which are not reasonable and moderate include, but are not limited to, any of the following that are done in anger or without regard to the safety of the child:

(1) throwing, kicking, burning, biting, or cutting a child;

(2) striking a child with a closed fist;

(3) shaking a child under age three;

(4) striking or other actions which result in any nonaccidental injury to a child under 18 months of age;

(5) unreasonable interference with a child's breathing;

(6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;

(7) striking a child under age one on the face or head;

(8) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled substances which were not prescribed for the child by a practitioner, in order to control or punish the child; or other substances that substantially affect the child's behavior, motor coordination, or judgment or that results in sickness or internal injury, or subjects the child to medical procedures that would be unnecessary if the child were not exposed to the substances;

(9) unreasonable physical confinement or restraint not permitted under section 609.379, including but not limited to tying, caging, or chaining; or

(10) in a school facility or school zone, an act by a person responsible for the child's care that is a violation under section 121A.58.

(h) "Report" means any report received by the local welfare agency, police department, county sheriff, or agency responsible for assessing or investigating maltreatment pursuant to this section.

(i) "Facility" means:

(1) a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed under sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245B;

(2) a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10; or

(3) a nonlicensed personal care provider organization as defined in sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

(j) "Operator" means an operator or agency as defined in section 245A.02.

(k) "Commissioner" means the commissioner of human services.

(l) "Practice of social services," for the purposes of subdivision 3, includes but is not limited to employee assistance counseling and the provision of guardian ad litem and parenting time expeditor services.

(m) "Mental injury" means an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture.

(n) "Threatened injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury. Threatened injury includes, but is not limited to, exposing a child to a person responsible for the child's care, as defined in paragraph (e), clause (1), who has:

(1) subjected a child to, or failed to protect a child from, an overt act or condition that constitutes egregious harm, as defined in section 260C.007, subdivision 14, or a similar law of another jurisdiction;

(2) been found to be palpably unfit under section 260C.301, paragraph (b), clause (4), or a similar law of another jurisdiction;

(3) committed an act that has resulted in an involuntary termination of parental rights under section 260C.301, or a similar law of another jurisdiction; or

(4) committed an act that has resulted in the involuntary transfer of permanent legal and physical custody of a child to a relative under section 260C.201, subdivision 11, paragraph (d), clause (1), or a similar law of another jurisdiction.

A child is the subject of a report of threatened injury when the responsible social services agency receives birth match data under paragraph (o) from the Department of Human Services.

(o) Upon receiving data under section 144.225, subdivision 2b, contained in a birth record or recognition of parentage identifying a child who is subject to threatened injury under paragraph (n), the Department of Human Services shall send the data to the responsible social services agency. The data is known as "birth match" data. Unless the responsible social services agency has already begun an investigation or assessment of the report due to the birth of the child or execution of the recognition of parentage and the parent's previous history with child protection, the agency shall accept the birth match data as a report under this section. The agency may use either a family assessment or investigation to determine whether the child is safe. All of the provisions of this section apply. If the child is determined to be safe, the agency shall consult with the county attorney to determine the appropriateness of filing a petition alleging the child is in need of protection or services under section 260C.007, subdivision 6, clause (16), in order to deliver needed services. If the child is determined not to be safe, the agency and the county attorney shall take appropriate action as required under section 260C.301, subdivision 3.

~~(p)~~ (p) Persons who conduct assessments or investigations under this section shall take into account accepted child-rearing practices of the culture in which a child participates and accepted teacher discipline practices, which are not injurious to the child's health, welfare, and safety.

~~(q)~~ (q) "Accidental" means a sudden, not reasonably foreseeable, and unexpected occurrence or event which:

(1) is not likely to occur and could not have been prevented by exercise of due care; and

(2) if occurring while a child is receiving services from a facility, happens when the facility and the employee or person providing services in the facility are in compliance with the laws and rules relevant to the occurrence or event.

~~(r)~~ (r) "Nonmaltreatment mistake" means:

(1) at the time of the incident, the individual was performing duties identified in the center's child care program plan required under Minnesota Rules, part 9503.0045;

(2) the individual has not been determined responsible for a similar incident that resulted in a finding of maltreatment for at least seven years;

(3) the individual has not been determined to have committed a similar nonmaltreatment mistake under this paragraph for at least four years;

(4) any injury to a child resulting from the incident, if treated, is treated only with remedies that are available over the counter, whether ordered by a medical professional or not; and

(5) except for the period when the incident occurred, the facility and the individual providing services were both in compliance with all licensing requirements relevant to the incident.

This definition only applies to child care centers licensed under Minnesota Rules, chapter 9503. If clauses (1) to (5) apply, rather than making a determination of substantiated maltreatment by the individual, the commissioner of human services shall determine that a nonmaltreatment mistake was made by the individual.

Sec. 50. Minnesota Statutes 2010, section 626.556, subdivision 10f, is amended to read:

Subd. 10f. **Notice of determinations.** Within ten working days of the conclusion of a family assessment, the local welfare agency shall notify the parent or guardian of the child of the need for services to address child safety concerns or significant risk of subsequent child maltreatment. The local welfare agency and the family may also jointly agree that family support and family preservation services are needed. Within ten working days of the conclusion of an investigation, the local welfare agency or agency responsible for assessing or investigating the

report shall notify the parent or guardian of the child, the person determined to be maltreating the child, and if applicable, the director of the facility, of the determination and a summary of the specific reasons for the determination. When the investigation involves a child foster care setting that is monitored by a private licensing agency under section 245A.16, the local welfare agency responsible for assessing or investigating the report shall notify the private licensing agency of the determination and shall provide a summary of the specific reasons for the determination. The notice to the private licensing agency must include identifying private data, but not the identity of the reporter of maltreatment. The notice must also include a certification that the information collection procedures under subdivision 10, paragraphs (h), (i), and (j), were followed and a notice of the right of a data subject to obtain access to other private data on the subject collected, created, or maintained under this section. In addition, the notice shall include the length of time that the records will be kept under subdivision 11c. The investigating agency shall notify the parent or guardian of the child who is the subject of the report, and any person or facility determined to have maltreated a child, of their appeal or review rights under this section ~~or section 256.022~~. The notice must also state that a finding of maltreatment may result in denial of a license application or background study disqualification under chapter 245C related to employment or services that are licensed by the Department of Human Services under chapter 245A, the Department of Health under chapter 144 or 144A, the Department of Corrections under section 241.021, and from providing services related to an unlicensed personal care provider organization under chapter 256B.

Sec. 51. Minnesota Statutes 2010, section 626.556, subdivision 10i, is amended to read:

Subd. 10i. **Administrative reconsideration; review panel.** (a) Administrative reconsideration is not applicable in family assessments since no determination concerning maltreatment is made. For investigations, except as provided under paragraph (e), an individual or facility that the commissioner of human services, a local social service agency, or the commissioner of education determines has maltreated a child, an interested person acting on behalf of the child, regardless of the determination, who contests the investigating agency's final determination regarding maltreatment, may request the investigating agency to reconsider its final determination regarding maltreatment. The request for reconsideration must be submitted in writing to the investigating agency within 15 calendar days after receipt of notice of the final determination regarding maltreatment or, if the request is made by an interested person who is not entitled to notice, within 15 days after receipt of the notice by the parent or guardian of the child. If mailed, the request for reconsideration must be postmarked and sent to the investigating agency within 15 calendar days of the individual's or facility's receipt of the final determination. If the request for reconsideration is made by personal service, it must be received by the investigating agency within 15 calendar days after the individual's or facility's receipt of the final determination. Effective January 1, 2002, an individual who was determined to have maltreated a child under this section and who was disqualified on the basis of serious or recurring maltreatment under sections 245C.14 and 245C.15, may request reconsideration of the maltreatment determination and the disqualification. The request for reconsideration of the maltreatment determination and the disqualification must be submitted within 30 calendar days of the individual's receipt of the notice of disqualification under sections 245C.16 and 245C.17. If mailed, the request for reconsideration of the maltreatment determination and the disqualification must be postmarked and sent to the investigating agency within 30 calendar days of the individual's receipt of the maltreatment determination and notice of disqualification. If the request for reconsideration is made by personal service, it must be received by the investigating agency within 30 calendar days after the individual's receipt of the notice of disqualification.

(b) Except as provided under paragraphs (e) and (f), if the investigating agency denies the request or fails to act upon the request within 15 working days after receiving the request for reconsideration, the person or facility entitled to a fair hearing under section 256.045 may submit to the commissioner of human services or the commissioner of education a written request for a hearing under that section. Section 256.045 also governs hearings requested to contest a final determination of the commissioner of education. ~~For reports involving maltreatment of a child in a facility, an interested person acting on behalf of the child may request a review by the Child Maltreatment Review Panel under section 256.022 if the investigating agency denies the request or fails to act upon the request or if the interested person contests a reconsidered determination.~~ The investigating agency shall notify persons who

request reconsideration of their rights under this paragraph. The request must be submitted in writing to the review panel and a copy sent to the investigating agency within 30 calendar days of receipt of notice of a denial of a request for reconsideration or of a reconsidered determination. The request must specifically identify the aspects of the agency determination with which the person is dissatisfied.

(c) If, as a result of a reconsideration or review, the investigating agency changes the final determination of maltreatment, that agency shall notify the parties specified in subdivisions 10b, 10d, and 10f.

(d) Except as provided under paragraph (f), if an individual or facility contests the investigating agency's final determination regarding maltreatment by requesting a fair hearing under section 256.045, the commissioner of human services shall assure that the hearing is conducted and a decision is reached within 90 days of receipt of the request for a hearing. The time for action on the decision may be extended for as many days as the hearing is postponed or the record is held open for the benefit of either party.

(e) If an individual was disqualified under sections 245C.14 and 245C.15, on the basis of a determination of maltreatment, which was serious or recurring, and the individual has requested reconsideration of the maltreatment determination under paragraph (a) and requested reconsideration of the disqualification under sections 245C.21 to 245C.27, reconsideration of the maltreatment determination and reconsideration of the disqualification shall be consolidated into a single reconsideration. If reconsideration of the maltreatment determination is denied and the individual remains disqualified following a reconsideration decision, the individual may request a fair hearing under section 256.045. If an individual requests a fair hearing on the maltreatment determination and the disqualification, the scope of the fair hearing shall include both the maltreatment determination and the disqualification.

(f) If a maltreatment determination or a disqualification based on serious or recurring maltreatment is the basis for a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, the license holder has the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. As provided for under section 245A.08, subdivision 2a, the scope of the contested case hearing shall include the maltreatment determination, disqualification, and licensing sanction or denial of a license. In such cases, a fair hearing regarding the maltreatment determination and disqualification shall not be conducted under section 256.045. Except for family child care and child foster care, reconsideration of a maltreatment determination as provided under this subdivision, and reconsideration of a disqualification as provided under section 245C.22, shall also not be conducted when:

(1) a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, is based on a determination that the license holder is responsible for maltreatment or the disqualification of a license holder based on serious or recurring maltreatment;

(2) the denial of a license or licensing sanction is issued at the same time as the maltreatment determination or disqualification; and

(3) the license holder appeals the maltreatment determination or disqualification, and denial of a license or licensing sanction.

Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment determination or disqualification, but does not appeal the denial of a license or a licensing sanction, reconsideration of the maltreatment determination shall be conducted under sections 626.556, subdivision 10i, and 626.557, subdivision 9d, and reconsideration of the disqualification shall be conducted under section 245C.22. In such cases, a fair hearing shall also be conducted as provided under sections 245C.27, 626.556, subdivision 10i, and 626.557, subdivision 9d.

If the disqualified subject is an individual other than the license holder and upon whom a background study must be conducted under chapter 245C, the hearings of all parties may be consolidated into a single contested case hearing upon consent of all parties and the administrative law judge.

(g) For purposes of this subdivision, "interested person acting on behalf of the child" means a parent or legal guardian; stepparent; grandparent; guardian ad litem; adult stepbrother, stepsister, or sibling; or adult aunt or uncle; unless the person has been determined to be the perpetrator of the maltreatment.

Sec. 52. Minnesota Statutes 2010, section 626.556, subdivision 11, is amended to read:

Subd. 11. **Records.** (a) Except as provided in paragraph (b) ~~or (d)~~ and subdivisions 10b, 10d, 10g, and 11b, all records concerning individuals maintained by a local welfare agency or agency responsible for assessing or investigating the report under this section, including any written reports filed under subdivision 7, shall be private data on individuals, except insofar as copies of reports are required by subdivision 7 to be sent to the local police department or the county sheriff. All records concerning determinations of maltreatment by a facility are nonpublic data as maintained by the Department of Education, except insofar as copies of reports are required by subdivision 7 to be sent to the local police department or the county sheriff. Reports maintained by any police department or the county sheriff shall be private data on individuals except the reports shall be made available to the investigating, petitioning, or prosecuting authority, including county medical examiners or county coroners. Section 13.82, subdivisions 8, 9, and 14, apply to law enforcement data other than the reports. The local social services agency or agency responsible for assessing or investigating the report shall make available to the investigating, petitioning, or prosecuting authority, including county medical examiners or county coroners or their professional delegates, any records which contain information relating to a specific incident of neglect or abuse which is under investigation, petition, or prosecution and information relating to any prior incidents of neglect or abuse involving any of the same persons. The records shall be collected and maintained in accordance with the provisions of chapter 13. In conducting investigations and assessments pursuant to this section, the notice required by section 13.04, subdivision 2, need not be provided to a minor under the age of ten who is the alleged victim of abuse or neglect. An individual subject of a record shall have access to the record in accordance with those sections, except that the name of the reporter shall be confidential while the report is under assessment or investigation except as otherwise permitted by this subdivision. Any person conducting an investigation or assessment under this section who intentionally discloses the identity of a reporter prior to the completion of the investigation or assessment is guilty of a misdemeanor. After the assessment or investigation is completed, the name of the reporter shall be confidential. The subject of the report may compel disclosure of the name of the reporter only with the consent of the reporter or upon a written finding by the court that the report was false and that there is evidence that the report was made in bad faith. This subdivision does not alter disclosure responsibilities or obligations under the Rules of Criminal Procedure.

(b) Upon request of the legislative auditor, data on individuals maintained under this section must be released to the legislative auditor in order for the auditor to fulfill the auditor's duties under section 3.971. The auditor shall maintain the data in accordance with chapter 13.

(c) The commissioner of education must be provided with all requested data that are relevant to a report of maltreatment and are in possession of a school facility as defined in subdivision 2, paragraph (i), when the data is requested pursuant to an assessment or investigation of a maltreatment report of a student in a school. If the commissioner of education makes a determination of maltreatment involving an individual performing work within a school facility who is licensed by a board or other agency, the commissioner shall provide necessary and relevant information to the licensing entity to enable the entity to fulfill its statutory duties. Notwithstanding section 13.03, subdivision 4, data received by a licensing entity under this paragraph are governed by section 13.41 or other applicable law governing data of the receiving entity, except that this section applies to the classification of and access to data on the reporter of the maltreatment.

~~(d) The investigating agency shall exchange not public data with the Child Maltreatment Review Panel under section 256.022 if the data are pertinent and necessary for a review requested under section 256.022. Upon completion of the review, the not public data received by the review panel must be returned to the investigating agency.~~

Sec. 53. **REPEALER.**

Minnesota Statutes 2010, section 256.022, is repealed.

Sec. 54. **EFFECTIVE DATE.**

This article is effective August 2, 2012.

ARTICLE 2  
SAFE PLACE FOR NEWBORNS

Section 1. Minnesota Statutes 2010, section 145.902, is amended to read:

**145.902 GIVE LIFE A CHANCE; SAFE PLACE FOR NEWBORNS; ~~HOSPITAL~~ DUTIES; IMMUNITY.**

Subdivision 1. **General.** (a) For purposes of this section, a "safe place" means a hospital licensed under sections 144.50 to 144.56, a health care provider who provides 24-hour access to urgent care services, or an ambulance dispatched in response to a 911 call.

(b) ~~A hospital licensed under sections 144.50 to 144.56~~ safe place shall receive a newborn left with ~~a hospital~~ an employee on the hospital premises of the safe place during its hours of operation, provided that:

(1) ~~the newborn was born within 72 hours~~ seven days of being left at the ~~hospital~~ safe place, as determined within a reasonable degree of medical certainty; and

(2) the newborn is left in an unharmed condition.

~~(b)~~ (c) ~~The hospital~~ safe place must not inquire as to the identity of the mother or the person leaving the newborn or call the police, provided the newborn is unharmed when presented to the hospital. ~~The hospital~~ safe place may ask the mother or the person leaving the newborn about the medical history of the mother or newborn but the mother or the person leaving the newborn is not required to provide any information. ~~The hospital~~ safe place may provide the mother or the person leaving the newborn with information about how to contact relevant social service agencies.

(d) A safe place that is a health care provider who provides 24-hour access to urgent care services shall dial 911, advise the dispatcher that the call is being made from a safe place for newborns, and ask the dispatcher to send an ambulance or take other appropriate action to transport the newborn to a hospital. An ambulance with whom a newborn is left shall transport the newborn to a hospital for care. Hospitals must receive a newborn left with a safe place and make the report as required in subdivision 2.

Subd. 2. **Reporting.** Within 24 hours of receiving a newborn under this section, the hospital must inform the ~~local welfare agency~~ responsible social service agency that a newborn has been left at the hospital, but must not do so ~~before in the presence of~~ the mother or the person leaving the newborn ~~leaves the hospital.~~ The hospital must provide necessary care to the newborn pending assumption of legal responsibility by the responsible social services agency pursuant to section 260C.217, subdivision 4.

Subd. 3. **Immunity.** (a) A ~~hospital~~ safe place with responsibility for performing duties under this section, and any employee, doctor, ambulance personnel, or other medical professional working at the ~~hospital~~ safe place, are immune from any criminal liability that otherwise might result from their actions, if they are acting in good faith in receiving a newborn, and are immune from any civil liability that otherwise might result from merely receiving a newborn.

(b) A ~~hospital~~ safe place performing duties under this section, or an employee, doctor, ambulance personnel, or other medical professional working at the ~~hospital~~ safe place who is a mandated reporter under section 626.556, is immune from any criminal or civil liability that otherwise might result from the failure to make a report under that section if the person is acting in good faith in complying with this section.

Sec. 2. Minnesota Statutes 2010, section 260C.217, is amended to read:

**260C.217 GIVE LIFE A CHANCE; SAFE PLACE FOR NEWBORNS.**

Subdivision 1. **Duty to attempt reunification, duty to search for relatives, and preferences not applicable.** A ~~local~~ responsible social service agency ~~taking custody of~~ with responsibility for a child ~~after discharge from a hospital that received a child under section 145.902 pursuant to subdivision 4,~~ is not required to attempt to reunify the child with the child's parents. Additionally, the agency is not required to search for relatives of the child as a placement or permanency option under section 260C.212, subdivision 5, or to implement other placement requirements that give a preference to relatives if the agency does not have information as to the identity of the child, the child's mother, or the child's father.

Subd. 1a. **Definitions.** For purposes of this section, "safe place" has the meaning given in section 145.902.

Subd. 2. **Status of child.** For purposes of proceedings under this chapter and adoption proceedings, a newborn left at a ~~hospital under~~ safe place, pursuant to subdivision 3 and section 145.902, is considered an abandoned child under section 626.556, subdivision 2, paragraph (c), clause (3). The child is abandoned under sections 260C.007, subdivision 6, clause (1), and 260C.301, subdivision 1, paragraph (b), clause (1).

Subd. 3. **Relinquishment of a newborn.** A mother or any person, with the mother's permission, may bring a newborn infant to a safe place during its hours of operation and leave the infant in the care of an employee of the safe place. The mother or a person with the mother's permission may call 911 to request to have an ambulance dispatched to an agreed-upon location to relinquish a newborn infant into the custody of ambulance personnel.

Subd. 4. **Placement of the newborn.** The agency contacted by a safe place pursuant to section 145.902, subdivision 2, shall have legal responsibility for the placement of the newborn infant in foster care for 72 hours during which time the agency shall file a petition under section 260C.141 and ask the court to order continued placement of the child in foster care. The agency shall immediately begin planning for adoptive placement of the newborn.

Sec. 3. Minnesota Statutes 2010, section 609.3785, is amended to read:

**609.3785 UNHARMED NEWBORNS LEFT AT HOSPITALS A SAFE PLACE; AVOIDANCE OF PROSECUTION.**

A person may leave a newborn with a ~~hospital~~ an employee at a ~~hospital~~ safe place, as defined in section 145.902, in this state, pursuant to section 260C.217, subdivision 3, without being subjected to prosecution for that act, provided that:

(1) the newborn was born within ~~72 hours~~ seven days of being left at the ~~hospital~~ safe place, as determined within a reasonable degree of medical certainty;

(2) the newborn is left in an unharmed condition; and

(3) in cases where the person leaving the newborn is not the newborn's mother, the person has the mother's approval to do so.

### ARTICLE 3 ADOPTION ASSISTANCE

#### Section 1. [259A.01] DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of this chapter, the terms defined in this section have the meanings given them except as otherwise indicated by the context.

Subd. 2. **Adoption assistance.** "Adoption assistance" means medical coverage and reimbursement of nonrecurring adoption expenses, and may also include financial support and reimbursement for specific nonmedical expenses provided under agreement with the parent of an adoptive child who would otherwise remain in foster care and whose special needs would otherwise make it difficult to place the child for adoption. Financial support may include a basic maintenance payment and a supplemental needs payment.

Subd. 3. **Adoptive parent.** "Adoptive parent" means the adult who has been made the legal parent of a child through a court-ordered adoption decree or a customary adoption through tribal court.

Subd. 4. **AFDC.** "AFDC" means the aid to families with dependent children program under sections 256.741, 256.82, and 256.87.

Subd. 5. **Assessment.** "Assessment" means the process by which the child-placing agency determines the benefits an eligible child may receive under this chapter.

Subd. 6. **At-risk child.** "At-risk child" means a child who does not have a documented disability but who is at risk of developing a physical, mental, emotional, or behavioral disability based on being related within the first or second degree to persons who have an inheritable physical, mental, emotional, or behavioral disabling condition, or from a background that has the potential to cause the child to develop a physical, mental, emotional, or behavioral disability that the child is at risk of developing. The disability must manifest during childhood.

Subd. 7. **Basic maintenance payment.** "Basic maintenance payment" means the maintenance payment made on behalf of a child to support the costs an adoptive parent incurs to meet a child's needs consistent with the care parents customarily provide, including: food, clothing, shelter, daily supervision, school supplies, and a child's personal incidentals. It also supports reasonable travel to participate in face-to-face visitation between child and birth relatives, including siblings.

Subd. 8. **Child.** "Child" means an individual under 18 years of age. For purposes of this chapter, child also includes individuals up to age 21 who have approved adoption assistance agreement extensions under section 259A.45, subdivision 1.

Subd. 9. **Child-placing agency.** "Child-placing agency" means a business, organization, or department of government, including the responsible social services agency or a federally recognized Minnesota tribe, designated or authorized by law to place children for adoption and assigned legal responsibility for placement, care, and supervision of the child through a court order, voluntary placement agreement, or voluntary relinquishment.

Subd. 10. **Child under guardianship of the commissioner of human services.** "Child under guardianship of the commissioner of human services" means a child the court has ordered under the guardianship of the commissioner of human services pursuant to section 260C.325.

Subd. 11. **Commissioner.** "Commissioner" means the commissioner of human services or any employee of the Department of Human Services to whom the commissioner has delegated authority regarding children under the commissioner's guardianship.

Subd. 12. **Consent of parent to adoption under chapter 260C.** "Consent of parent to adoption under chapter 260C" means the consent executed pursuant to section 260C.515, subdivision 3.

Subd. 13. **Department.** "Department" means the Minnesota Department of Human Services.

Subd. 14. **Disability.** "Disability" means a physical, mental, emotional, or behavioral impairment that substantially limits one or more major life activities. Major life activities include, but are not limited to: thinking, walking, hearing, breathing, working, seeing, speaking, communicating, learning, developing and maintaining healthy relationships, safely caring for oneself, and performing manual tasks. The nature, duration, and severity of the impairment shall be used in determining if the limitation is substantial.

Subd. 15. **Foster care.** "Foster care" has the meaning given in section 260C.007, subdivision 18.

Subd. 16. **Guardian.** "Guardian" means an adult who is appointed pursuant to section 260C.325. For a child under guardianship of the commissioner, the child's guardian is the commissioner of human services.

Subd. 17. **Guardianship.** "Guardianship" means the court-ordered rights and responsibilities of the guardian of a child and includes legal custody of the child.

Subd. 18. **Indian child.** "Indian child" has the meaning given in section 260.755, subdivision 8.

Subd. 19. **Legal custodian.** "Legal custodian" means a person to whom permanent legal and physical custody of a child has been transferred under chapter 260C, or for children under tribal court jurisdiction, a similar provision under tribal code which means that the individual responsible for the child has responsibility for the protection, education, care, and control of the child and decision making on behalf of the child.

Subd. 20. **Medical assistance.** "Medical assistance" means Minnesota's implementation of the federal Medicaid program.

Subd. 21. **Parent.** "Parent" has the meaning given in section 257.52. Parent does not mean a putative father of a child unless the putative father also meets the requirements of section 257.55 or unless the putative father is entitled to notice under section 259.49, subdivision 1. For matters governed by the Indian Child Welfare Act, parent includes any Indian person who has adopted a child by tribal law or custom, as provided in section 260.755, subdivision 14, and does not include the unwed father where paternity has not been acknowledged or established.

Subd. 22. **Permanent legal and physical custody.** "Permanent legal and physical custody" means permanent legal and physical custody ordered by a Minnesota court under section 260C.515, subdivision 4, or for children under tribal court jurisdiction, a similar provision under tribal code which means that the individual with permanent legal and physical custody of the child has responsibility for the protection, education, care, and control of the child and decision making on behalf of the child.

Subd. 23. **Preadoptive parent.** "Preadoptive parent" means an adult who is caring for a child in an adoptive placement, but where the court has not yet ordered a final decree of adoption making the adult the legal parent of the child.

Subd. 24. **Reassessment.** "Reassessment" means an update of a previous assessment through the process under this chapter completed for a child who has been continuously eligible for this benefit.

Subd. 25. **Relative.** "Relative" means a person related to the child by blood, marriage, or adoption, or an individual who is an important friend with whom the child has resided or had significant contact. For an Indian child, relative includes members of the extended family as defined by law or custom of the Indian child's tribe, or, in the absence of law or custom, shall be a person who has reached the age of 18 and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent, as provided in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1903.

Subd. 26. **Relative search.** "Relative search" means the search that is required under section 260C.212, subdivision 5.

Subd. 27. **Sibling.** "Sibling" has the meaning given in section 260C.007, subdivision 32.

Subd. 28. **Social and medical history.** "Social and medical history" means the document, on a form or forms prescribed by the commissioner, that contains a child's genetic, medical, and family background as well as the history and current status of a child's physical and mental health, behavior, demeanor, foster care placements, education, and family relationships and has the same meaning as the history required under sections 259.43 and 260C.609.

Subd. 29. **Supplemental needs payment.** "Supplemental needs payment" means the payment which is negotiated with the adoptive parent for a child who has a documented physical, mental, emotional, or behavioral disability. The payment is made based on the requirements associated with parenting duties to nurture the child, preserve the child's connections, and support the child's functioning in the home.

Subd. 30. **Termination of parental rights.** "Termination of parental rights" means a court order that severs all rights, powers, privileges, immunities, duties, and obligations, including any rights to custody, control, visitation, or support, existing between a parent and child. For an Indian child who is a ward of tribal court, termination of parental rights means any action resulting in the termination or suspension of the parent-child relationship when the tribe has made a judicial determination that the child cannot or should not be returned to the home of the child's parent or parents.

## Sec. 2. **[259A.05] PROGRAM ADMINISTRATION.**

Subdivision 1. **Administration of title IV-E programs.** The title IV-E Adoption Assistance Program shall operate according to the requirements of United States Code, title 42, sections 671 and 673, and Code of Federal Regulations, parts 1355 and 1356.

Subd. 2. **Administration responsibilities.** (a) AFDC relatedness is one eligibility component of title IV-E adoption assistance. The AFDC relatedness determination shall be made by an agency according to policies and procedures prescribed by the commissioner.

(b) Subject to commissioner approval, the child-placing agency shall certify a child's eligibility for adoption assistance in writing on the forms prescribed by the commissioner according to section 259A.15.

(c) Children who meet all eligibility criteria except those specific to title IV-E, shall receive adoption assistance paid through state funds.

(d) The child-placing agency is responsible for assisting the commissioner with the administration of the adoption assistance program by conducting assessments, reassessments, negotiations, and other activities as specified by the requirements and procedures prescribed by the commissioner.

(e) The child-placing agency shall notify an adoptive parent of a child's eligibility for Medicaid in the state of residence. In Minnesota, the child-placing agency shall refer the adoptive parent to the appropriate social service agency in the parent's county of residence that administers medical assistance. The child-placing agency shall inform the adoptive parent of the requirement to comply with the rules of the applicable Medicaid program.

**Subd. 3. Procedures, requirements, and deadlines.** The commissioner shall specify procedures, requirements, and deadlines for the administration of adoption assistance in accordance with this section.

**Subd. 4. Promotion of programs.** (a) Parents who adopt children with special needs must be informed of the adoption tax credit.

(b) The commissioner shall actively seek ways to promote the adoption assistance program, including informing prospective adoptive parents of eligible children under guardianship of the commissioner and the availability of adoption assistance.

**Sec. 3. [259A.10] ELIGIBILITY REQUIREMENTS.**

**Subdivision 1. General eligibility requirements.** (a) To be eligible for adoption assistance, a child must:

(1) be determined to be a child with special needs, according to subdivision 2;

(2) meet the applicable citizenship and immigration requirements in subdivision 3; and

(3)(i) meet the criteria outlined in section 473 of the Social Security Act; or

(ii) have had foster care payments paid on the child's behalf while in out-of-home placement through the county or tribal social service agency and be a child under the guardianship of the commissioner or a ward of tribal court.

(b) In addition to the requirements in paragraph (a), the child's adoptive parents must meet the applicable background study requirements outlined in subdivision 4.

**Subd. 2. Special needs determination.** (a) A child is considered a child with special needs under this section if all of the requirements in paragraphs (b) to (g) are met.

(b) There has been a determination that the child cannot or should not be returned to the home of the child's parents as evidenced by:

(1) court-ordered termination of parental rights;

(2) petition to terminate parental rights;

(3) consent of parent to adoption accepted by the court under chapter 260C;

(4) in circumstances where tribal law permits the child to be adopted without a termination of parental rights, a judicial determination by tribal court indicating the valid reason why the child cannot or should not return home;

(5) voluntary relinquishment under section 259.25 or 259.47 or, if relinquishment occurred in another state, the applicable laws in that state; or

(6) death of the legal parent, or parents if the child has two legal parents.

(c) There exists a specific factor or condition because of which it is reasonable to conclude that the child cannot be placed with adoptive parents without providing adoption assistance as evidenced by:

(1) determination by the Social Security Administration that the child meets all medical or disability requirements of title XVI of the Social Security Act with respect to eligibility for Supplemental Security Income benefits;

(2) documented physical, mental, emotional, or behavioral disability not covered under clause (1);

(3) a member in a sibling group being adopted at the same time by the same parent;

(4) adoptive placement in the home of a parent who previously adopted a sibling for whom they receive adoption assistance; or

(5) documentation that the child is an at-risk child.

(d) A reasonable but unsuccessful effort was made to place the child with adoptive parents without providing adoption assistance as evidenced by:

(1) a documented search for an appropriate adoptive placement; or

(2) determination by the commissioner that a search under clause (1) is not in the best interests of the child.

(e) The requirement for a documented search for an appropriate adoptive placement under paragraph (d), including the registration of the child with the State Adoption Exchange and other recruitment methods under paragraph (f), must be waived if:

(1) the child is being adopted by a relative and it is determined by the child-placing agency that adoption by the relative is in the best interests of the child;

(2) the child is being adopted by a foster parent with whom the child has developed significant emotional ties while in their care as a foster child and it is determined by the child-placing agency that adoption by the foster parent is in the best interests of the child; or

(3) the child is being adopted by a parent that previously adopted a sibling of the child, and it is determined by the child-placing agency that adoption by this parent is in the best interests of the child.

When the Indian Child Welfare Act applies, a waiver must not be granted unless the child-placing agency has complied with the placement preferences required by the Indian Child Welfare Act according to United States Code, title 25, section 1915(a).

(f) To meet the requirement of a documented search for an appropriate adoptive placement under paragraph (d), clause (1), the child-placing agency minimally must:

(1) conduct a relative search as required by section 260C.212, subdivision 5, and give consideration to placement with a relative as required by section 260C.212, subdivision 2;

(2) comply with the adoptive placement preferences required under the Indian Child Welfare Act when the Indian Child Welfare Act, United States Code, title 25, section 1915(a), applies;

(3) locate prospective adoptive families by registering the child on the State Adoption Exchange, as required under section 259.75; and

(4) if registration with the State Adoption Exchange does not result in the identification of an appropriate adoptive placement, the agency must employ additional recruitment methods, as outlined in requirements and procedures prescribed by the commissioner.

(g) Once the child-placing agency has determined that placement with an identified parent is in the child's best interest and has made full written disclosure about the child's social and medical history, the agency must ask the prospective adoptive parent if they are willing to adopt the child without adoption assistance. If the identified parent is either unwilling or unable to adopt the child without adoption assistance, the child-placing agency must provide documentation as prescribed by the commissioner to fulfill the requirement to make a reasonable effort to place the child without adoption assistance. If the identified parent desires to adopt the child without adoption assistance, the parent must provide a written statement to this effect to the child-placing agency and the statement must be maintained in the permanent adoption record of the child-placing agency. For children under guardianship of the commissioner, the child-placing agency shall submit a copy of this statement to the commissioner to be maintained in the permanent adoption record.

**Subd. 3. Citizenship and immigration status.** (a) A child must be a citizen of the United States or otherwise eligible for federal public benefits according to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended, in order to be eligible for the title IV-E Adoption Assistance Program.

(b) A child must be a citizen of the United States or meet the qualified alien requirements as defined in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended, in order to be eligible for state-funded adoption assistance.

**Subd. 4. Background study.** (a) A background study under section 259.41 must be completed on each prospective adoptive parent. An adoptive parent is prohibited from receiving adoption assistance on behalf of an otherwise eligible child if the background study reveals:

(1) a felony conviction at any time for:

(i) child abuse or neglect;

(ii) spousal abuse;

(iii) a crime against children, including child pornography; or

(iv) a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery; or

(2) a felony conviction within the past five years for:

(i) physical assault;

(ii) battery; or

(iii) a drug-related offense.

**Subd. 5. Responsibility for determining adoption assistance eligibility.** The state will determine eligibility for:

(1) a Minnesota child under the guardianship of the commissioner who would otherwise remain in foster care;

(2) a child who is not under the guardianship of the commissioner who meets title IV-E eligibility defined in section 473 of the Social Security Act and no state agency has legal responsibility for placement and care of the child;

(3) a Minnesota child under tribal jurisdiction who would otherwise remain in foster care; and

(4) an Indian child being placed in Minnesota who meets title IV-E eligibility defined in section 473 of the Social Security Act. The agency or entity assuming responsibility for the child is responsible for the nonfederal share of the adoption assistance payment.

**Subd. 6. Exclusions.** The commissioner shall not enter into an adoption assistance agreement with:

(1) a child's biological parent or stepparent;

(2) a child's relative, according to section 260C.007, subdivision 27, with whom the child resided immediately prior to child welfare involvement unless:

(i) the child was in the custody of a Minnesota county or tribal agency pursuant to an order under chapter 260C or equivalent provisions of tribal code and the agency had placement and care responsibility for permanency planning for the child; and

(ii) the child is under guardianship of the commissioner of human services according to the requirements of section 260C.325, subdivision 1, paragraphs (a) and (b), or subdivision 3, paragraphs (a) and (b), or is a ward of a Minnesota tribal court after termination of parental rights, suspension of parental rights, or a finding by the tribal court that the child cannot safely return to the care of the parent;

(3) a child's legal custodian or guardian who is now adopting the child;

(4) an individual adopting a child who is the subject of a direct adoptive placement under section 259.47 or the equivalent in tribal code; or

(5) an individual who is adopting a child who is not a citizen or resident of the United States and was either adopted in another country or brought to this country for the purposes of adoption.

**Sec. 4. [259A.15] ESTABLISHMENT OF ADOPTION ASSISTANCE ELIGIBILITY.**

**Subdivision 1. Adoption assistance certification.** (a) The child-placing agency shall certify a child as eligible for adoption assistance according to requirements and procedures, and on forms prescribed by the commissioner. Documentation from a qualified expert must be provided to verify that a child meets the special needs criteria in section 259A.10, subdivision 2.

(b) Expert documentation of a disability is limited to evidence deemed appropriate by the commissioner and must be submitted with the certification. Examples of appropriate documentation include, but are not limited to, medical records, psychological assessments, educational or early childhood evaluations, court findings, and social and medical history.

(c) Documentation that the child is an at-risk child must be submitted according to requirements and procedures prescribed by the commissioner.

Subd. 2. **Adoption assistance agreement.** (a) An adoption assistance agreement is a binding contract between the adopting parent, the child-placing agency, and the commissioner. The agreement outlines the benefits to be provided on behalf of an eligible child.

(b) In order to receive adoption assistance benefits, a written agreement on a form prescribed by the commissioner must be signed by the parent, an approved representative from the child-placing agency, and the commissioner prior to the effective date of the adoption decree. No later than 30 days after the parent is approved for the adoptive placement, the agreement must be negotiated with the parent as required in section 259A.25, subdivision 1. Adoption assistance must be approved or denied by the commissioner no later than 15 business days after the receipt of a complete adoption assistance application prescribed by the commissioner. A fully executed copy of the signed agreement must be given to each party. Termination or disruption of the adoptive placement preceding adoption finalization makes the agreement with that parent void.

(c) The agreement must specify the following:

(1) duration of the agreement;

(2) the nature and amount of any payment, services, and assistance to be provided under the agreement;

(3) the child's eligibility for Medicaid services;

(4) the terms of the payment;

(5) eligibility for reimbursement of nonrecurring expenses associated with adopting the child, to the extent that the total cost does not exceed \$2,000 per child;

(6) that the agreement will remain in effect regardless of the state in which the adoptive parent resides at any given time;

(7) provisions for modification of the terms of the agreement; and

(8) the effective date of the agreement.

(d) The agreement is effective on the date of the adoption decree.

Subd. 3. **Assessment tool.** An assessment tool prescribed by the commissioner must be completed for any child who has a documented disability that necessitates care, supervision, and structure beyond that ordinarily provided in a family setting to children of the same age. This assessment tool must be submitted with the adoption assistance certification and establishes eligibility for the amount of assistance requested.

#### Sec. 5. **[259A.20] BENEFITS AND PAYMENTS.**

Subdivision 1. **General information.** (a) Payments to parents under adoption assistance must be made monthly.

(b) Payments must commence when the commissioner receives the adoption decree from the court, the child-placing agency, or the parent. Payments must be made according to requirements and procedures prescribed by the commissioner.

(c) Payments shall only be made to the adoptive parent specified on the agreement. If there is more than one adoptive parent, both parties must be listed as the payee unless otherwise specified in writing according to requirements and procedures prescribed by the commissioner.

(d) Payment must be considered income and resource attributable to the child. Payment must not be assigned or transferred to another party. Payment is exempt from garnishment, except as permissible under the laws of the state where the child resides.

Subd. 2. **Medical assistance eligibility.** Eligibility for medical assistance for children receiving adoption assistance is as specified in section 256B.055.

Subd. 3. **Payments.** (a) The basic maintenance payments must be made according to the following schedule for all children except those eligible for adoption assistance based on being an at-risk child:

|                               |                              |
|-------------------------------|------------------------------|
| <u>Birth through age five</u> | <u>up to \$247 per month</u> |
| <u>Age six through age 11</u> | <u>up to \$277 per month</u> |
| <u>Age 12 through age 14</u>  | <u>up to \$307 per month</u> |
| <u>Age 15 and older</u>       | <u>up to \$337 per month</u> |

A child must receive the maximum payment amount for the child's age, unless a lesser amount is negotiated with and agreed to by the prospective adoptive parent.

(b) Supplemental needs payments, in addition to basic maintenance payments, are available based on the severity of a child's disability and the level of parenting required to care for the child, and must be made according to the following amounts:

|                  |                              |
|------------------|------------------------------|
| <u>Level I</u>   | <u>up to \$150 per month</u> |
| <u>Level II</u>  | <u>up to \$275 per month</u> |
| <u>Level III</u> | <u>up to \$400 per month</u> |
| <u>Level IV</u>  | <u>up to \$500 per month</u> |

A child's level shall be assessed on an assessment tool prescribed by the commissioner. A child must receive the maximum payment for the child's assessed level, unless a lesser amount is negotiated with and agreed to by the prospective adoptive parent.

Subd. 4. **Reimbursement for special nonmedical expenses.** (a) Reimbursement for special nonmedical expenses is available to children, except those eligible for adoption assistance based on being an at-risk child.

(b) Reimbursements under this paragraph shall be made only after the adoptive parent documents that the requested service was denied by the local social service agency, community agencies, local school district, local public health department, the parent's insurance provider, or the child's program. The denial must be for an eligible service or qualified item under the program requirements of the applicable agency or organization.

(c) Reimbursements must be previously authorized, adhere to the requirements and procedures prescribed by the commissioner, and be limited to:

(1) child care for a child age 12 and younger, or for a child age 13 or 14 who has a documented disability that requires special instruction for and services by the child care provider. Child care reimbursements may be made if all available adult caregivers are employed or attending educational or vocational training programs. If a parent is attending an educational or vocational training program, child care reimbursement is limited to no more than the time necessary to complete the credit requirements for an associate or baccalaureate degree as determined by the educational institution. Child care reimbursement is not limited for an adoptive parent completing basic or remedial education programs needed to prepare for postsecondary education or employment;

(2) respite care provided for the relief of the child's parent up to 504 hours of respite care annually;

(3) camping up to 14 days per state fiscal year for a child to attend a special needs camp. The camp must be accredited by the American Camp Association as a special needs camp in order to be eligible for camp reimbursement;

(4) postadoption counseling to promote the child's integration into the adoptive family that is provided by the placing agency during the first year following the date of the adoption decree. Reimbursement is limited to 12 sessions of postadoption counseling;

(5) family counseling that is required to meet the child's special needs. Reimbursement is limited to the prorated portion of the counseling fees allotted to the family when the adoptive parent's health insurance or Medicaid pays for the child's counseling but does not cover counseling for the rest of the family members;

(6) home modifications to accommodate the child's special needs upon which eligibility for adoption assistance was approved. Reimbursement is limited to once every five years per child;

(7) vehicle modifications to accommodate the child's special needs upon which eligibility for adoption assistance was approved. Reimbursement is limited to once every five years per family; and

(8) burial expenses up to \$1,000, if the special needs, upon which eligibility for adoption assistance was approved, resulted in the death of the child.

(d) The adoptive parent shall submit statements for expenses incurred between July 1 and June 30 of a given fiscal year to the state adoption assistance unit within 60 days after the end of the fiscal year in order for reimbursement to occur.

**Sec. 6. [259A.25] DETERMINATION OF ADOPTION ASSISTANCE BENEFITS AND PAYMENT.**

**Subdivision 1. Negotiation of adoption assistance agreement.** (a) A monthly payment is provided as part of the adoption assistance agreement to support the care of a child who has manifested special needs. The amount of the payment made on behalf of a child eligible for adoption assistance is determined through negotiation between the adoptive parent and the child-placing agency on behalf of the commissioner. The negotiation shall take into consideration the circumstances of the adopting parent and the needs of the child being adopted. The income of the adoptive parent must not be taken into consideration when determining eligibility for adoption assistance or the amount of the payments under section 259A.20. At the written request of the adoptive parent, the amount of the payment in the agreement may be renegotiated when there is a change in the child's needs or the family's circumstances.

(b) The adoption assistance agreement of a child who is identified as an at-risk child must not include a monthly payment unless and until the potential disability upon which the eligibility for the agreement was based has manifested during childhood.

**Subd. 2. Renegotiation of adoption assistance agreement.** (a) An adoptive parent of a child with an adoption assistance agreement may request renegotiation of the agreement when there is a change in the needs of the child or in the family's circumstances. When an adoptive parent requests renegotiation of the agreement, a reassessment of the child must be completed by: (1) the responsible social services agency in the child's county of residence; or (2) the child-placing agency that facilitated the adoption when the child's residence is out of state. If the reassessment indicates that the child's needs have changed, the child-placing agency, on behalf of the commissioner and the parent, shall renegotiate the agreement to include a payment of the level determined appropriate through the reassessment process using the assessment tool prescribed by the commissioner according to section 259A.15.

subdivision 3. The agreement must not be renegotiated unless the commissioner and the parent mutually agree to the changes. The effective date of any renegotiated agreement must be determined according to requirements and procedures prescribed by the commissioner.

(b) An adoptive parent of a child with an adoption assistance agreement based on the child being an at-risk child may request renegotiation of the agreement to include a monthly payment. The parent must have written documentation from a qualified expert that the potential disability upon which eligibility for adoption assistance was approved has manifested. Documentation of the disability must be limited to evidence deemed appropriate by the commissioner. Prior to renegotiating the agreement, a reassessment of the child must be conducted using an assessment tool prescribed by the commissioner according to section 259A.15, subdivision 3. The reassessment must be used to renegotiate the agreement to include an appropriate monthly payment. The agreement must not be renegotiated unless the commissioner and the adoptive parent mutually agree to the changes. The effective date of any renegotiated agreement must be determined according to requirements and procedures prescribed by the commissioner.

Subd. 3. **Child income or income attributable to the child.** No income received by a child will be considered in determining a child's adoption assistance payment amount. If a child for whom a parent is receiving adoption assistance is also receiving Supplemental Security Income (SSI) or Retirement, Survivors, Disability Insurance (RSDI), the certifying agency shall inform the adoptive parent that the child's adoption assistance must be reported to the Social Security Administration.

Sec. 7. **[259A.30] REPORTING RESPONSIBILITIES.**

Subdivision 1. **Notification of change.** (a) An adoptive parent who has an adoption assistance agreement shall keep the agency administering the program informed of changes in status or circumstances that would make the child ineligible for the payments or eligible for payments in a different amount.

(b) As long as the agreement is in effect, the adoptive parent agrees to notify the agency administering the program in writing within 30 days of any of the following changes:

(1) the child's or adoptive parent's legal name;

(2) the family's address;

(3) the child's legal custody status;

(4) the child's completion of high school, if this occurs after the child attains age 18;

(5) the end of an adoptive parent's legal responsibility to support the child based on: termination of parental rights of the adoptive parent, transfer of guardianship to another person, or transfer of permanent legal and physical custody to another person;

(6) the end of an adoptive parent's financial support of the child;

(7) the death of the child;

(8) the death of the adoptive parent;

(9) the child enlists in the military;

(10) the child gets married;

(11) the child becomes an emancipated minor through legal action;

(12) the adoptive parents separate or divorce;

(13) the child is residing outside the adoptive home for a period of more than 30 consecutive days; and

(14) the child's status upon which eligibility for extension under section 259A.45, subdivision 2 or 3, was based.

Subd. 2. **Correct and true information.** If the adoptive parent reports information the adoptive parent knows is untrue, the adoptive parent fails to notify the commissioner of changes that may affect eligibility, or the agency administering the program receives information the adoptive parent did not report, the adoptive parent may be investigated for theft and, if charged and convicted, shall be sentenced under section 609.52, subdivision 3, clauses (1) to (5).

Sec. 8. **[259A.35] TERMINATION OF AGREEMENT.**

Subdivision 1. **Reasons for termination.** (a) An adoption assistance agreement shall terminate in any of the following circumstances:

(1) the child has attained the age of 18, or up to age 21, when the child meets a condition for extension as outlined in section 259A.45, subdivision 1;

(2) the child has not attained the age of 18, but the commissioner determines the adoptive parent is no longer legally responsible for support of the child;

(3) the commissioner determines the adoptive parent is no longer providing financial support to the child up to age 21;

(4) the death of the child; or

(5) the adoptive parent requests in writing termination of the adoption assistance agreement.

(b) An adoptive parent is considered no longer legally responsible for support of the child in any of the following circumstances:

(1) parental rights to the child are legally terminated or a court accepted the parent's consent to adoption under chapter 260C;

(2) permanent legal and physical custody or guardianship of the child is transferred to another individual;

(3) death of adoptive parent;

(4) child enlists in the military;

(5) child gets married; or

(6) child is determined an emancipated minor through legal action.

Subd. 2. **Death of adoptive parent or adoption dissolution.** The adoption assistance agreement ends upon death or termination of parental rights of both adoptive parents in the case of a two-parent adoption, or the sole adoptive parent in the case of a single-parent adoption. The child's adoption assistance eligibility may be continued according to section 259A.40.

Subd. 3. **Termination notice for parent.** The commissioner shall provide the child's parent written notice of termination of payment. Termination notices must be sent according to the requirements and procedures prescribed by the commissioner.

**Sec. 9. [259A.40] ASSIGNMENT OF ADOPTION ASSISTANCE AGREEMENT.**

**Subdivision 1. Continuing child's eligibility for title IV-E adoption assistance in a subsequent adoption.**

(a) The child maintains eligibility for title IV-E adoption assistance in a subsequent adoption if the following criteria are met:

(1) the child is determined to be a child with special needs as outlined in section 259A.10, subdivision 2; and

(2) the subsequent adoptive parent resides in Minnesota.

(b) If the child had a title IV-E adoption assistance agreement prior to the death of the adoptive parent or dissolution of the adoption, and the subsequent adoptive parent resides outside of Minnesota, the state is not responsible for determining whether the child meets the definition of special needs, entering into the adoption assistance agreement, and making any adoption assistance payments outlined in the new agreement unless a state agency in Minnesota has responsibility for placement and care of the child at the time of the subsequent adoption. If there is no state agency in Minnesota that has responsibility for placement and care of the child at the time of the subsequent adoption, it is the public child welfare agency in the subsequent adoptive parent's residence that is responsible for determining whether the child meets the definition of special needs and entering into the adoption assistance agreement.

**Subd. 2. Assigning a child's adoption assistance to a court-appointed guardian.** (a) State-funded adoption assistance may be continued with the written consent of the commissioner to an individual who is a guardian appointed by a court for the child upon the death of both the adoptive parents in the case of a two-parent adoption, or the sole adoptive parent in the case of a single-parent adoption, unless the child is under the custody of a child-placing agency.

(b) Temporary assignment of adoption assistance may be approved by the commissioner for a maximum of six consecutive months from the death of the parent or parents and must adhere to the requirements and procedures prescribed by the commissioner. If, within six months, the child has not been adopted by a person agreed upon by the commissioner, or if a court has not appointed a legal guardian under either section 260C.325 or 524.5-313, or similar law of another jurisdiction, the adoption assistance shall terminate. Upon assignment of payments pursuant to this subdivision, funding shall be from state funds only.

**Sec. 10. [259A.45] EXTENSION OF ADOPTION ASSISTANCE AGREEMENT.**

**Subdivision 1. General requirements.** (a) Under certain limited circumstances a child may qualify for extension of the adoption assistance agreement beyond the date the child attains age 18, up to the date the child attains the age of 21.

(b) A request for extension of the adoption assistance agreement must be completed in writing and submitted, including all supporting documentation, by the adoptive parent at least 60 calendar days prior to the date that the current agreement will terminate.

(c) A signed amendment to the current adoption assistance agreement must be fully executed between the adoptive parent and the commissioner at least ten business days prior to the termination of the current agreement. The request for extension and the fully executed amendment must be made according to the requirements and procedures prescribed by the commissioner, including documentation of eligibility, and on forms prescribed by the commissioner.

(d) If a child-placing agency is certifying a child for adoption assistance and the child will attain the age of 18 within 60 calendar days of submission, the request for extension must be completed in writing and submitted, including all supporting documentation, with the adoption assistance application.

Subd. 2. **Extension past age 18 for child adopted after 16th birthday.** A child who has attained the age of 16 prior to finalization of the child's adoption is eligible for extension of the adoption assistance agreement up to the date the child attains age 21 if the child is:

(1) dependent on the adoptive parent for care and financial support; and

(2)(i) completing a secondary education program or a program leading to an equivalent credential;

(ii) enrolled in an institution that provides postsecondary or vocational education;

(iii) participating in a program or activity designed to promote or remove barriers to employment;

(iv) employed for at least 80 hours per month; or

(v) incapable of doing any of the activities described in clauses (i) to (iv) due to a medical condition where incapability is supported by documentation from an expert according to the requirements and procedures prescribed by the commissioner.

Subd. 3. **Extension past age 18 for child adopted prior to 16th birthday.** A child who has not attained the age of 16 prior to finalization of the child's adoption is eligible for extension of the adoption assistance agreement up to the date the child attains the age of 21 if the child is:

(1) dependent on the adoptive parent for care and financial support; and

(2)(i) enrolled in a secondary education program or a program leading to the equivalent; or

(ii) incapable of sustaining employment because of the continuation of a physical or mental disability, upon which eligibility for adoption assistance was approved.

**Sec. 11. [259A.50] OVERPAYMENTS OF ADOPTION ASSISTANCE.**

An amount of adoption assistance paid to an adoptive parent in excess of the payment that was actually due is recoverable by the commissioner, even when the overpayment was caused by agency error or circumstances outside the responsibility and control of the parent or provider. Adoption assistance amounts covered by this section include basic maintenance needs payments, monthly supplemental maintenance needs payments, reimbursement of nonrecurring adoption expenses, reimbursement of special nonmedical costs, and reimbursement of medical costs.

**Sec. 12. [259A.55] APPEALS AND FAIR HEARINGS.**

Subdivision 1. **Appeals for denials, modifications, or terminations.** An adoptive parent or a prospective adoptive parent has the right to appeal to the commissioner under section 256.045, for reasons including, but not limited to: when eligibility for adoption assistance is denied, when a specific payment or reimbursement is modified or denied, and when the agreement for an eligible child is terminated. A prospective adoptive parent who disagrees with a decision by the commissioner prior to finalization of the adoption may request review of the decision by the commissioner, or may appeal the decision under section 256.045.

Subd. 2. **Extenuating circumstances.** (a) An adoption assistance agreement must be signed and fully executed prior to the court order that finalizes the adoption. An adoptive parent who believes that extenuating circumstances exist, as to why the adoption was finalized prior to fully executing an adoption assistance agreement, may request a fair hearing. The parent has the responsibility to prove the existence of extenuating circumstances, such as:

(1) relevant facts regarding the child were known by the child-placing agency and not presented to the parent prior to finalization of the adoption; or

(2) the child-placing agency failed to advise a potential parent about the availability of adoption assistance for a child in the county-paid foster care system.

(b) If an appeals judge finds through the fair hearing process that extenuating circumstances existed and that the child met all eligibility criteria at the time the adoption was finalized, the effective date and any associated federal financial participation shall be retroactive to the date of the request for a fair hearing.

Sec. 13. **[259A.65] INTERSTATE COMPACT ON ADOPTION AND MEDICAL ASSISTANCE.**

Subdivision 1. **Purpose.** It is the purpose and policy of the state of Minnesota to:

(1) enter into interstate agreements with agencies of other states to safeguard and protect the interests of children covered by an adoption assistance agreement when they are adopted across state lines or move to another state after adoption finalization; and

(2) provide a framework for uniformity and consistency in administrative procedures when a child with special needs is adopted by a family in another state and for children adopted in Minnesota who move to another state.

Subd. 2. **Definitions.** For the purposes of this section, the terms defined in this subdivision have the meanings given them, unless the context clearly indicates otherwise.

(a) "Adoption assistance state" means the state that certifies eligibility for Medicaid in an adoption assistance agreement.

(b) "Resident state" means the state where the adopted child is a resident.

(c) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or a territory or possession of the United States.

Subd. 3. **Compacts authorized.** The commissioner is authorized to develop, negotiate, and enter into one or more interstate compacts on behalf of this state with other states to implement Medicaid for children with adoption assistance agreements.

Subd. 4. **Contents of compacts.** (a) A compact must include:

(1) a provision allowing all states to join the compact;

(2) a provision for withdrawal from the compact upon written notice to the parties, effective one year after the notice is provided;

(3) a requirement that the protections afforded under the compact continue in force for the duration of the adoption assistance from a party state other than the one in which the adopted child is a resident;

(4) a requirement that each instance of adoption assistance to which the compact applies be covered by an adoption assistance agreement in writing between the adoptive parent and the state child welfare agency of the state that provides the adoption assistance, and that the agreement be expressly for the benefit of the adopted child and enforceable by the adoptive parent and the state agency providing the adoption assistance; and

(5) other provisions necessary and appropriate for the proper administration of the compact.

(b) A compact may contain provisions establishing requirements and entitlements to medical, developmental, child care, or other social services for the child under state law, even though the child and the adoptive parent are in a state other than the one responsible for or providing the services or funds to pay part or all of the costs.

**Subd. 5. Duties of commissioner of human services regarding medical assistance.** (a) The commissioner of human services shall:

(1) provide Minnesota medical assistance for an adopted child who is title IV-E eligible;

(2) provide Minnesota medical assistance for an adopted child who is not title IV-E eligible who:

(i) was determined to have a special need for medical or rehabilitative care;

(ii) is living in another state; and

(iii) is covered by an adoption assistance agreement made by the commissioner for medical coverage or benefits when the child is not eligible for Medicaid in the child's residence state;

(3) consider the holder of a medical assistance identification card under this subdivision as any other recipient of medical assistance under chapter 256B; and

(4) process and make payments on claims for the recipient in the same manner as for other recipients of medical assistance.

(b) Coverage must be limited to providers authorized by Minnesota's medical assistance program, and according to Minnesota's program requirements.

**Subd. 6. Cooperation with Medicaid.** The adoptive parent shall cooperate with and abide by the Medicaid program requirements and procedures of the state which provides medical coverage.

**Subd. 7. Federal participation.** The commissioner shall apply for and administer all relevant aid in accordance with state and federal law.

**Sec. 14. [259A.70] REIMBURSEMENT OF NONRECURRING ADOPTION EXPENSES.**

(a) The commissioner of human services shall provide reimbursement to an adoptive parent for costs incurred in an adoption of a child with special needs according to section 259A.10, subdivision 2. Reimbursement shall be made for expenses that are reasonable and necessary for the adoption to occur, subject to a maximum of \$2,000. The expenses must directly relate to the legal adoption of the child, not be incurred in violation of state or federal law, and must not have been reimbursed from other sources or funds.

(b) Children who have special needs but are not citizens or residents of the United States and were either adopted in another country or brought to this country for the purposes of adoption are categorically ineligible for this reimbursement program, except if the child meets the eligibility criteria after the dissolution of the international adoption.

(c) An adoptive parent, in consultation with the responsible child-placing agency, may request reimbursement of nonrecurring adoption expenses by submitting a complete application, according to the requirements and procedures and on forms prescribed by the commissioner.

(d) The commissioner shall determine the child's eligibility for adoption expense reimbursement under title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 676. If determined eligible, the commissioner of human services shall sign the agreement for nonrecurring adoption expense reimbursement, making this a fully executed agreement. To be eligible, the agreement must be fully executed prior to the child's adoption finalization.

(e) An adoptive parent who has an adoption assistance agreement under section 259A.15, subdivision 2, is not required to make a separate application for reimbursement of nonrecurring adoption expenses for the child who is the subject of that agreement.

(f) If determined eligible, the adoptive parent shall submit reimbursement requests within 21 months of the date of the child's adoption decree, and according to requirements and procedures prescribed by the commissioner.

**Sec. 15. [259A.75] REIMBURSEMENT OF CERTAIN AGENCY COSTS; PURCHASE OF SERVICE CONTRACTS.**

Subdivision 1. **General information.** (a) Subject to the procedures required by the commissioner and the provisions of this section, a Minnesota county or tribal social services agency shall receive a reimbursement from the commissioner equal to 100 percent of the reasonable and appropriate cost for contracted adoption placement services identified for a specific child that are not reimbursed under other federal or state funding sources.

(b) The commissioner may spend up to \$16,000 for each purchase of service contract. Only one contract per child per adoptive placement is permitted. Funds encumbered and obligated under the contract for the child remain available until the terms of the contract are fulfilled or the contract is terminated.

(c) The commissioner shall set aside an amount not to exceed five percent of the total amount of the fiscal year appropriation from the state for the adoption assistance program to reimburse placing agencies for child-specific adoption placement services. When adoption assistance payments for children's needs exceed 95 percent of the total amount of the fiscal year appropriation from the state for the adoption assistance program, the amount of reimbursement available to placing agencies for adoption services is reduced correspondingly.

Subd. 2. **Child eligibility criteria.** (a) A child who is the subject of a purchase of service contract must:

(1) have the goal of adoption, which may include an adoption in accordance with tribal law;

(2) be under the guardianship of the commissioner of human services or be a ward of tribal court pursuant to section 260.755, subdivision 20; and

(3) meet all of the special needs criteria according to section 259A.10, subdivision 2.

(b) A child under the guardianship of the commissioner must have an identified adoptive parent and a fully executed adoption placement agreement according to section 260C.613, subdivision 1, paragraph (a).

Subd. 3. **Agency eligibility criteria.** (a) A Minnesota county or tribal social services agency shall receive reimbursement for child-specific adoption placement services for an eligible child that it purchases from a private adoption agency licensed in Minnesota or any other state or tribal social services agency.

(b) Reimbursement for adoption services is available only for services provided prior to the date of the adoption decree.

Subd. 4. **Application and eligibility determination.** (a) A county or tribal social services agency may request reimbursement of costs for adoption placement services by submitting a complete purchase of service application, according to the requirements and procedures and on forms prescribed by the commissioner.

(b) The commissioner shall determine eligibility for reimbursement of adoption placement services. If determined eligible, the commissioner of human services shall sign the purchase of service agreement, making this a fully executed contract. No reimbursement under this section shall be made to an agency for services provided prior to the fully executed contract.

(c) Separate purchase of service agreements shall be made, and separate records maintained, on each child. Only one agreement per child per adoptive placement is permitted. For siblings who are placed together, services shall be planned and provided to best maximize efficiency of the contracted hours.

Subd. 5. **Reimbursement process.** (a) The agency providing adoption services is responsible to track and record all service activity, including billable hours, on a form prescribed by the commissioner. The agency shall submit this form to the state for reimbursement after services have been completed.

(b) The commissioner shall make the final determination whether or not the requested reimbursement costs are reasonable and appropriate and if the services have been completed according to the terms of the purchase of service agreement.

Subd. 6. **Retention of purchase of service records.** Agencies entering into purchase of service contracts shall keep a copy of the agreements, service records, and all applicable billing and invoicing according to the department's record retention schedule. Agency records shall be provided upon request by the commissioner.

Sec. 16. **EFFECTIVE DATE.**

This article is effective August 1, 2012.

ARTICLE 4  
CHILD PROTECTION

Section 1. Minnesota Statutes 2010, section 260.012, is amended to read:

**260.012 DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY REUNIFICATION;  
REASONABLE EFFORTS.**

(a) Once a child alleged to be in need of protection or services is under the court's jurisdiction, the court shall ensure that reasonable efforts, including culturally appropriate services, by the social services agency are made to prevent placement or to eliminate the need for removal and to reunite the child with the child's family at the earliest possible time, and the court must ensure that the responsible social services agency makes reasonable efforts to finalize an alternative permanent plan for the child as provided in paragraph (e). In determining reasonable efforts to be made with respect to a child and in making those reasonable efforts, the child's best interests, health, and safety must be of paramount concern. Reasonable efforts to prevent placement and for rehabilitation and reunification are always required except upon a determination by the court that a petition has been filed stating a prima facie case that:

(1) the parent has subjected a child to egregious harm as defined in section 260C.007, subdivision 14;

(2) the parental rights of the parent to another child have been terminated involuntarily;

(3) the child is an abandoned infant under section 260C.301, subdivision 2, paragraph (a), clause (2);

(4) the parent's custodial rights to another child have been involuntarily transferred to a relative under section 260C.201, subdivision 11, paragraph (d), clause (1), or a similar law of another jurisdiction; ~~or~~

(5) the parent has committed sexual abuse as defined in section 626.556, subdivision 2, against the child or another child of the parent;

(6) the parent has committed an offense that requires registration as a predatory offender under section 243.166, subdivision 1b, paragraph (a) or (b); or

~~(5)~~ (7) the provision of services or further services for the purpose of reunification is futile and therefore unreasonable under the circumstances.

(b) When the court makes one of the prima facie determinations under paragraph (a), either permanency pleadings under section 260C.201, subdivision 11, or a termination of parental rights petition under sections 260C.141 and 260C.301 must be filed. A permanency hearing under section 260C.201, subdivision 11, must be held within 30 days of this determination.

(c) In the case of an Indian child, in proceedings under sections 260B.178 or 260C.178, 260C.201, and 260C.301 the juvenile court must make findings and conclusions consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901 et seq., as to the provision of active efforts. In cases governed by the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, the responsible social services agency must provide active efforts as required under United States Code, title 25, section 1911(d).

(d) "Reasonable efforts to prevent placement" means:

(1) the agency has made reasonable efforts to prevent the placement of the child in foster care by working with the family to develop and implement a safety plan; or

(2) given the particular circumstances of the child and family at the time of the child's removal, there are no services or efforts available which could allow the child to safely remain in the home.

(e) "Reasonable efforts to finalize a permanent plan for the child" means due diligence by the responsible social services agency to:

(1) reunify the child with the parent or guardian from whom the child was removed;

(2) assess a noncustodial parent's ability to provide day-to-day care for the child and, where appropriate, provide services necessary to enable the noncustodial parent to safely provide the care, as required by section 260C.212, subdivision 4;

(3) conduct a relative search to identify and provide notice to adult relatives as required under section 260C.212, subdivision 5;

(4) place siblings removed from their home in the same home for foster care or adoption, or transfer permanent legal and physical custody to a relative. Visitation between siblings who are not in the same foster care, adoption, or custodial placement or facility shall be consistent with section 260C.212, subdivision 2; and

(5) when the child cannot return to the parent or guardian from whom the child was removed, to plan for and finalize a safe and legally permanent alternative home for the child, and considers permanent alternative homes for the child inside or outside of the state, preferably through adoption or transfer of permanent legal and physical custody of the child.

(f) Reasonable efforts are made upon the exercise of due diligence by the responsible social services agency to use culturally appropriate and available services to meet the needs of the child and the child's family. Services may include those provided by the responsible social services agency and other culturally appropriate services available in the community. At each stage of the proceedings where the court is required to review the appropriateness of the responsible social services agency's reasonable efforts as described in paragraphs (a), (d), and (e), the social services agency has the burden of demonstrating that:

(1) it has made reasonable efforts to prevent placement of the child in foster care;

(2) it has made reasonable efforts to eliminate the need for removal of the child from the child's home and to reunify the child with the child's family at the earliest possible time;

(3) it has made reasonable efforts to finalize an alternative permanent home for the child, and considers permanent alternative homes for the child inside or outside of the state; or

(4) reasonable efforts to prevent placement and to reunify the child with the parent or guardian are not required. The agency may meet this burden by stating facts in a sworn petition filed under section 260C.141, by filing an affidavit summarizing the agency's reasonable efforts or facts the agency believes demonstrate there is no need for reasonable efforts to reunify the parent and child, or through testimony or a certified report required under juvenile court rules.

(g) Once the court determines that reasonable efforts for reunification are not required because the court has made one of the prima facie determinations under paragraph (a), the court may only require reasonable efforts for reunification after a hearing according to section 260C.163, where the court finds there is not clear and convincing evidence of the facts upon which the court based its prima facie determination. In this case when there is clear and convincing evidence that the child is in need of protection or services, the court may find the child in need of protection or services and order any of the dispositions available under section 260C.201, subdivision 1. Reunification of a ~~surviving~~ child with a parent is not required if the parent has been convicted of:

(1) a violation of, or an attempt or conspiracy to commit a violation of, sections 609.185 to 609.20; 609.222, subdivision 2; or 609.223 in regard to another child of the parent;

(2) a violation of section 609.222, subdivision 2; or 609.223, in regard to the ~~surviving~~ child; or

(3) a violation of, or an attempt or conspiracy to commit a violation of, United States Code, title 18, section 1111(a) or 1112(a), in regard to another child of the parent;

(4) committing sexual abuse as defined in section 626.556, subdivision 2, against the child or another child of the parent; or

(5) an offense that requires registration as a predatory offender under section 243.166, subdivision 1b, paragraph (a) or (b).

(h) The juvenile court, in proceedings under sections 260B.178 or 260C.178, 260C.201, and 260C.301 shall make findings and conclusions as to the provision of reasonable efforts. When determining whether reasonable efforts have been made, the court shall consider whether services to the child and family were:

- (1) relevant to the safety and protection of the child;
- (2) adequate to meet the needs of the child and family;
- (3) culturally appropriate;
- (4) available and accessible;
- (5) consistent and timely; and
- (6) realistic under the circumstances.

In the alternative, the court may determine that provision of services or further services for the purpose of rehabilitation is futile and therefore unreasonable under the circumstances or that reasonable efforts are not required as provided in paragraph (a).

(i) This section does not prevent out-of-home placement for treatment of a child with a mental disability when it is determined to be medically necessary as a result of the child's diagnostic assessment or individual treatment plan indicates that appropriate and necessary treatment cannot be effectively provided outside of a residential or inpatient treatment program and the level or intensity of supervision and treatment cannot be effectively and safely provided in the child's home or community and it is determined that a residential treatment setting is the least restrictive setting that is appropriate to the needs of the child.

(j) If continuation of reasonable efforts to prevent placement or reunify the child with the parent or guardian from whom the child was removed is determined by the court to be inconsistent with the permanent plan for the child or upon the court making one of the prima facie determinations under paragraph (a), reasonable efforts must be made to place the child in a timely manner in a safe and permanent home and to complete whatever steps are necessary to legally finalize the permanent placement of the child.

(k) Reasonable efforts to place a child for adoption or in another permanent placement may be made concurrently with reasonable efforts to prevent placement or to reunify the child with the parent or guardian from whom the child was removed. When the responsible social services agency decides to concurrently make reasonable efforts for both reunification and permanent placement away from the parent under paragraph (a), the agency shall disclose its decision and both plans for concurrent reasonable efforts to all parties and the court. When the agency discloses its decision to proceed on both plans for reunification and permanent placement away from the parent, the court's review of the agency's reasonable efforts shall include the agency's efforts under both plans.

Sec. 2. Minnesota Statutes 2010, section 260C.001, is amended to read:

**260C.001 TITLE, INTENT, AND CONSTRUCTION.**

Subdivision 1. **Citation; scope.** (a) Sections 260C.001 to ~~260C.454~~ 260C.521 may be cited as the ~~child~~ juvenile protection provisions of the Juvenile Court Act.

(b) Juvenile protection proceedings include:

(1) a child in need of protection or services matters;

(2) permanency matters, including termination of parental rights;

(3) postpermanency reviews under sections 260C.317 and 260C.521; and

(4) adoption matters including posttermination of parental rights proceedings that review the responsible social services agency's reasonable efforts to finalize adoption.

Subd. 2. ~~Child in need of Juvenile protection services proceedings.~~ (a) The paramount consideration in all juvenile protection proceedings ~~concerning a child alleged or found to be in need of protection or services~~ is the health, safety, and best interests of the child. In proceedings involving an American Indian child, as defined in section 260.755, subdivision 8, the best interests of the child must be determined consistent with sections 260.751 to 260.835 and the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923.

(b) The purpose of the laws relating to juvenile ~~courts~~ protection proceedings is:

(1) to secure for each child ~~alleged or adjudicated in need of protection or services and~~ under the jurisdiction of the court, the care and guidance, preferably in the child's own home, as will best serve the spiritual, emotional, mental, and physical welfare of the child;

(2) to provide judicial procedures ~~which~~ that protect the welfare of the child;

(3) to preserve and strengthen the child's family ties whenever possible and in the child's best interests, removing the child from the custody of parents only when the child's welfare or safety cannot be adequately safeguarded without removal;

(4) to ensure that when removal from the child's own family is necessary and in the child's best interests, the responsible social services agency has legal responsibility for the child removal either:

(i) pursuant to a voluntary placement agreement between the child's parent or guardian or the child, when the child is over age 18, and the responsible social services agency; or

(ii) by court order pursuant to section 260C.151, subdivision 6; ~~206C.178; or~~ 260C.178; 260C.201; 260C.325; or 260C.515;

(5) to ensure that, when placement is pursuant to court order, the court order removing the child or continuing the child in foster care contains an individualized determination that placement is in the best interests of the child that coincides with the actual removal of the child; ~~and~~

(6) to ensure that when the child is removed, the child's care and discipline is, as nearly as possible, equivalent to that which should have been given by the parents and is either in:

(i) the home of a noncustodial parent pursuant to section 260C.178 or 260C.201, subdivision 1, paragraph (a), clause (1);

(ii) the home of a relative pursuant to emergency placement by the responsible social services agency under chapter 245A; or

(iii) a foster ~~home~~ care licensed under chapter 245A; ~~and~~

(7) to ensure appropriate permanency planning for children in foster care including:

(i) unless reunification is not required under section 260.012, developing a permanency plan for the child that includes a primary plan for reunification with the child's parent or guardian and a secondary plan for an alternative, legally permanent home for the child in the event reunification cannot be achieved in a timely manner;

(ii) identifying, locating, and assessing both parents of the child as soon as possible and offering reunification services to both parents of the child as required under section 260.012 and 260C.219;

(iii) identifying, locating, and notifying relatives of both parents of the child according to section 260C.221;

(iv) making a placement with a family that will commit to being the legally permanent home for the child in the event reunification cannot occur at the earliest possible time while at the same time actively supporting the reunification plan; and

(v) returning the child home with supports and services, as soon as return is safe for the child, or when safe return cannot be timely achieved, moving to finalize another legally permanent home for the child.

Subd. 3. **Permanency ~~and~~ termination of parental rights, and adoption.** The purpose of the laws relating to permanency ~~and~~ termination of parental rights, and children who come under the guardianship of the commissioner of human services is to ensure that:

(1) when required and appropriate, reasonable efforts have been made by the social services agency to reunite the child with the child's parents in a home that is safe and permanent; and

(2) if placement with the parents is not reasonably foreseeable, to secure for the child a safe and permanent placement according to the requirements of section 260C.212, subdivision 2, preferably with adoptive parents or, if that is not possible or in the best interests of the child, a fit and willing relative through transfer of permanent legal and physical custody to that relative; and

(3) when a child is under the guardianship of the commissioner of human services, reasonable efforts are made to finalize an adoptive home for the child in a timely manner.

Nothing in this section requires reasonable efforts to prevent placement or to reunify the child with the parent or guardian to be made in circumstances where the court has determined that the child has been subjected to egregious harm, when the child is an abandoned infant, the parent has involuntarily lost custody of another child through a proceeding under section ~~260C.201, subdivision 11~~ 260C.515, subdivision 4, or similar law of another state, the parental rights of the parent to a sibling have been involuntarily terminated, or the court has determined that reasonable efforts or further reasonable efforts to reunify the child with the parent or guardian would be futile.

The paramount consideration in all proceedings for permanent placement of the child under ~~section 260C.201, subdivision 11~~ sections 260C.503 to 260C.521, or the termination of parental rights is the best interests of the child. In proceedings involving an American Indian child, as defined in section 260.755, subdivision 8, the best interests of the child must be determined consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, et seq.

Subd. 4. **Construction.** The laws relating to the ~~child protection provisions of the juvenile courts protection proceedings~~ shall be liberally construed to carry out these purposes.

Sec. 3. Minnesota Statutes 2010, section 260C.007, subdivision 4, is amended to read:

Subd. 4. **Child.** "Child" means an individual under 18 years of age. For purposes of this chapter and chapter 260D, child also includes individuals under age 21 who are in foster care pursuant to section 260C.451.

Sec. 4. Minnesota Statutes 2010, section 260C.007, is amended by adding a subdivision to read:

Subd. 26a. **Putative father.** "Putative father" has the meaning given in section 259.21, subdivision 12.

Sec. 5. Minnesota Statutes 2010, section 260C.007, is amended by adding a subdivision to read:

Subd. 27a. **Responsible social services agency.** "Responsible social services agency" means the county social services agency that has responsibility for public child welfare and child protection services and includes the provision of adoption services as an agent of the commissioner of human services.

Sec. 6. Minnesota Statutes 2010, section 260C.007, is amended by adding a subdivision to read:

Subd. 32. **Sibling.** "Sibling" means one of two or more individuals who have one or both parents in common through blood, marriage, or adoption, including siblings as defined by the child's tribal code or custom.

Sec. 7. Minnesota Statutes 2010, section 260C.101, subdivision 2, is amended to read:

Subd. 2. **Other matters relating to children.** ~~Except as provided in clause (4),~~ The juvenile court has original and exclusive jurisdiction in proceedings concerning:

(1) the termination of parental rights to a child in accordance with the provisions of sections 260C.301 to 260C.328;

(2) permanency matters under sections 260C.503 to 260C.521;

~~(3)~~ (4) the appointment and removal of a juvenile court guardian for a child, where parental rights have been terminated under the provisions of sections 260C.301 to 260C.328;

~~(3)~~ (4) judicial consent to the marriage of a child when required by law;

~~(4) the juvenile court in those counties in which the judge of the probate juvenile court has been admitted to the practice of law in this state shall proceed under the laws relating to adoptions in all adoption matters. In those counties in which the judge of the probate juvenile court has not been admitted to the practice of law in this state the district court shall proceed under the laws relating to adoptions in~~

~~(5)~~ (5) all adoption matters and review of the efforts to finalize the adoption of the child under section 260C.317;

~~(5)~~ (6) the review of the placement of a child who is in foster care pursuant to a voluntary placement agreement between the child's parent or parents and the responsible social services agency under section ~~260C.212, subdivision 8~~ & 260C.227; or between the child, when the child is over age 18, and the agency under section 260C.229; and

~~(6)~~ (7) the review of voluntary foster care placement of a child for treatment under chapter 260D according to the review requirements of that chapter.

Sec. 8. Minnesota Statutes 2010, section 260C.150, subdivision 1, is amended to read:

Subdivision 1. **Determining parentage.** (a) A parent and child relationship may be established under this chapter ~~according to the requirements of section 257.54 and.~~ The requirements of the Minnesota Parentage Act, sections 257.51 to 257.74, must be followed unless otherwise specified in this section.

(b) An action to establish a parent and child relationship under this chapter must be commenced by motion, which shall be personally served upon the alleged parent and served upon all required parties under the Minnesota Parentage Act as provided for service of motions in the Minnesota Rules of Juvenile Protection Procedure. The motion shall be brought in an existing juvenile protection proceeding and may be brought by any party, a putative father, or the county attorney representing the responsible social services agency.

(c) Notwithstanding any other provisions of law, a motion to establish parentage under this section, and any related documents or orders, are not confidential and are accessible to the public according to the provisions of the Minnesota Rules of Juvenile Protection Procedure. Any hearings related to establishment of paternity under this section are accessible to the public according to the Minnesota Rules of Juvenile Protection Procedure.

(d) The court may order genetic testing of any putative father or any man presumed to be the father of a child who is the subject of a juvenile protection matter unless paternity of the child has already been adjudicated under the Minnesota Parentage Act or if a recognition of parentage has been fully executed and filed under section 257.75 when the recognition of parentage has the force and effect of a judgment or order determining the existence of the parent and child relationship under section 257.66. If genetic testing is ordered, a positive genetic test under section 257.62, subdivision 5, is required to establish paternity for a child under this chapter.

(e) A copy of the order establishing the parent and child relationship shall be filed in family court. Any further proceedings for modification of the child support portion of the order that establishes the parent and child relationship shall be brought in the family court of the county where the original order was filed. The review shall be under chapters 518 and 518A. Notice of any family court proceedings shall be provided by the court administrator to the responsible social services agency, which shall be a party to the family court proceeding.

Sec. 9. Minnesota Statutes 2010, section 260C.157, subdivision 1, is amended to read:

Subdivision 1. **Investigation.** Upon request of the court the responsible social services agency or probation officer shall investigate the personal and family history and environment of any minor coming within the jurisdiction of the court under section 260C.101 and shall report its findings to the court. The court may order any minor coming within its jurisdiction to be examined by a duly qualified physician, psychiatrist, or psychologist appointed by the court.

~~Adoption investigations shall be conducted in accordance with the laws relating to adoptions in chapter 259. Any funds received under the provisions of this subdivision shall not cancel until the end of the fiscal year immediately following the fiscal year in which the funds were received. The funds are available for use by the commissioner of corrections during that period and are hereby appropriated annually to the commissioner of corrections as reimbursement of the costs of providing these services to the juvenile courts.~~

Sec. 10. Minnesota Statutes 2010, section 260C.163, subdivision 1, is amended to read:

Subdivision 1. **General.** (a) Except for hearings arising under section 260C.425, hearings on any matter shall be without a jury and may be conducted in an informal manner. In all adjudicatory proceedings ~~involving a child alleged to be in need of protection or services~~ regarding juvenile protection matters under this chapter, the court shall admit only evidence that would be admissible in a civil trial. To be proved at trial, allegations of a petition alleging a child to be in need of protection or services must be proved by clear and convincing evidence.

(b) Except for proceedings involving a child alleged to be in need of protection or services and petitions for the termination of parental rights, hearings may be continued or adjourned from time to time. In proceedings involving a child alleged to be in need of protection or services and ~~petitions~~ for the termination of parental rights, hearings may not be continued or adjourned for more than one week unless the court makes specific findings that the

continuance or adjournment is in the best interests of the child. If a hearing is held on a petition involving physical or sexual abuse of a child who is alleged to be in need of protection or services or neglected and in foster care, the court shall file the decision with the court administrator as soon as possible but no later than 15 days after the matter is submitted to the court. When a continuance or adjournment is ordered in any proceeding, the court may make any interim orders as it deems in the best interests of the minor in accordance with ~~the provisions of sections 260C.001 to 260C.421~~ this chapter.

(c) Absent exceptional circumstances, hearings under this chapter, except hearings in adoption proceedings, are presumed to be accessible to the public, however the court may close any hearing and the records related to any matter as provided in the Minnesota Rules of Juvenile Protection Procedure.

(d) Adoption hearings ~~shall be conducted in accordance with the provisions of laws relating to adoptions~~ are closed to the public and all records related to an adoption are inaccessible except as provided in the Minnesota Rules of Adoption Procedure.

(e) In any permanency hearing, including the transition of a child from foster care to independent living, the court shall ensure that its consult with the child during the hearing is in an age-appropriate manner.

Sec. 11. Minnesota Statutes 2010, section 260C.163, subdivision 4, is amended to read:

Subd. 4. **County attorney.** ~~Except in adoption proceedings, the county attorney shall present the evidence upon request of the court.~~ In representing the responsible social services agency, the county attorney shall also have the responsibility for advancing the public interest in the welfare of the child.

Sec. 12. Minnesota Statutes 2010, section 260C.178, subdivision 1, is amended to read:

Subdivision 1. **Hearing and release requirements.** (a) If a child was taken into custody under section 260C.175, subdivision 1, clause (1) or (2), item (ii), the court shall hold a hearing within 72 hours of the time the child was taken into custody, excluding Saturdays, Sundays, and holidays, to determine whether the child should continue in custody.

(b) Unless there is reason to believe that the child would endanger self or others or not return for a court hearing, or that the child's health or welfare would be immediately endangered, the child shall be released to the custody of a parent, guardian, custodian, or other suitable person, subject to reasonable conditions of release including, but not limited to, a requirement that the child undergo a chemical use assessment as provided in section 260C.157, subdivision 1.

(c) If the court determines there is reason to believe that the child would endanger self or others or not return for a court hearing, or that the child's health or welfare would be immediately endangered if returned to the care of the parent or guardian who has custody and from whom the child was removed, the court shall order the child into foster care under the legal responsibility of the responsible social services agency or responsible probation or corrections agency for the purposes of protective care as that term is used in the juvenile court rules or into the home of a noncustodial parent and order the noncustodial parent to comply with any conditions the court determines to be appropriate to the safety and care of the child, including cooperating with paternity establishment proceedings in the case of a man who has not been adjudicated the child's father. The court shall not give the responsible social services legal custody and order a trial home visit at any time prior to adjudication and disposition under section 260C.201, subdivision 1, paragraph (a), clause (3), but may order the child returned to the care of the parent or guardian who has custody and from whom the child was removed and order the parent or guardian to comply with any conditions the court determines to be appropriate to meet the safety, health, and welfare of the child.

(d) In determining whether the child's health or welfare would be immediately endangered, the court shall consider whether the child would reside with a perpetrator of domestic child abuse.

(e) The court, before determining whether a child should be placed in or continue in foster care under the protective care of the responsible agency, shall also make a determination, consistent with section 260.012 as to whether reasonable efforts were made to prevent placement or whether reasonable efforts to prevent placement are not required. In the case of an Indian child, the court shall determine whether active efforts, according to the Indian Child Welfare Act of 1978, United States Code, title 25, section 1912(d), were made to prevent placement. The court shall enter a finding that the responsible social services agency has made reasonable efforts to prevent placement when the agency establishes either:

(1) that it has actually provided services or made efforts in an attempt to prevent the child's removal but that such services or efforts have not proven sufficient to permit the child to safely remain in the home; or

(2) that there are no services or other efforts that could be made at the time of the hearing that could safely permit the child to remain home or to return home. When reasonable efforts to prevent placement are required and there are services or other efforts that could be ordered which would permit the child to safely return home, the court shall order the child returned to the care of the parent or guardian and the services or efforts put in place to ensure the child's safety. When the court makes a prima facie determination that one of the circumstances under paragraph (g) exists, the court shall determine that reasonable efforts to prevent placement and to return the child to the care of the parent or guardian are not required.

If the court finds the social services agency's preventive or reunification efforts have not been reasonable but further preventive or reunification efforts could not permit the child to safely remain at home, the court may nevertheless authorize or continue the removal of the child.

(f) The court may not order or continue the foster care placement of the child unless the court makes explicit, individualized findings that continued custody of the child by the parent or guardian would be contrary to the welfare of the child and that placement is in the best interest of the child.

(g) At the emergency removal hearing, or at any time during the course of the proceeding, and upon notice and request of the county attorney, the court shall determine whether a petition has been filed stating a prima facie case that:

(1) the parent has subjected a child to egregious harm as defined in section 260C.007, subdivision 14;

(2) the parental rights of the parent to another child have been involuntarily terminated;

(3) the child is an abandoned infant under section 260C.301, subdivision 2, paragraph (a), clause (2);

(4) the parents' custodial rights to another child have been involuntarily transferred to a relative under Minnesota Statutes 2010, section 260C.201, subdivision 11, paragraph (e), clause (1) ; section 260C.515, subdivision 4, or a similar law of another jurisdiction; ~~or~~

(5) the parent has committed sexual abuse as defined in section 626.556, subdivision 2, against the child or another child of the parent;

(6) the parent has committed an offense that requires registration as a predatory offender under section 243.166, subdivision 1b, paragraph (a) or (b); or

(7) the provision of services or further services for the purpose of reunification is futile and therefore unreasonable.

(h) When a petition to terminate parental rights is required under section 260C.301, subdivision 3 or 4, but the county attorney has determined not to proceed with a termination of parental rights petition, and has instead filed a petition to transfer permanent legal and physical custody to a relative under section ~~260C.201, subdivision 11~~ 260C.507, the court shall schedule a permanency hearing within 30 days of the filing of the petition.

(i) If the county attorney has filed a petition under section 260C.307, the court shall schedule a trial under section 260C.163 within 90 days of the filing of the petition except when the county attorney determines that the criminal case shall proceed to trial first under section ~~260C.201, subdivision 3~~ 260C.503, subdivision 2, paragraph (c).

(j) If the court determines the child should be ordered into foster care and the child's parent refuses to give information to the responsible social services agency regarding the child's father or relatives of the child, the court may order the parent to disclose the names, addresses, telephone numbers, and other identifying information to the responsible social services agency for the purpose of complying with ~~the requirements of~~ sections 260C.151, 260C.212, and 260C.215.

(k) If a child ordered into foster care has siblings, whether full, half, or step, who are also ordered into foster care, the court shall inquire of the responsible social services agency of the efforts to place the children together as required by section 260C.212, subdivision 2, paragraph (d), if placement together is in each child's best interests, unless a child is in placement for treatment or a child is placed with a previously noncustodial parent who is not a parent to all siblings. If the children are not placed together at the time of the hearing, the court shall inquire at each subsequent hearing of the agency's reasonable efforts to place the siblings together, as required under section 260.012. If any sibling is not placed with another sibling or siblings, the agency must develop a plan to facilitate visitation or ongoing contact among the siblings as required under section 260C.212, subdivision 1, unless it is contrary to the safety or well-being of any of the siblings to do so.

(l) When the court has ordered the child into foster care or into the home of a noncustodial parent, the court may order a chemical dependency evaluation, mental health evaluation, medical examination, and parenting assessment for the parent as necessary to support the development of a plan for reunification required under subdivision 7 and section 260C.212, subdivision 1, or the child protective services plan under section 626.556, subdivision 10, and Minnesota Rules, part 9560.0228.

Sec. 13. Minnesota Statutes 2010, section 260C.178, subdivision 7, is amended to read:

Subd. 7. **Out-of-home placement plan.** (a) An out-of-home placement plan required under section 260C.212 shall be filed with the court within 30 days of the filing of a juvenile protection petition ~~alleging the child to be in need of protection or services~~ under section 260C.141, subdivision 1, when the court orders emergency removal of the child under this section, or filed with the petition if the petition is a review of a voluntary placement under section 260C.141, subdivision 2.

(b) Upon the filing of the out-of-home placement plan which has been developed jointly with the parent and in consultation with others as required under section 260C.212, subdivision 1, the court may approve implementation of the plan by the responsible social services agency based on the allegations contained in the petition and any evaluations, examinations, or assessments conducted under subdivision 1, paragraph (l). The court shall send written notice of the approval of the out-of-home placement plan to all parties and the county attorney or may state such approval on the record at a hearing. A parent may agree to comply with the terms of the plan filed with the court.

(c) The responsible social services agency shall make reasonable ~~attempts~~ efforts to engage ~~a parent~~ both parents of the child in case planning. ~~If the parent refuses to cooperate in the development of the out-of-home placement plan or disagrees with the services recommended by~~ The responsible social service agency, ~~the agency shall note such refusal or disagreement for the court~~ report the results of its efforts to engage the child's parents in the out-of-home placement plan filed with the court. The agency shall notify the court of the services it will provide or efforts it will attempt under the plan notwithstanding the parent's refusal to cooperate or disagreement with the services. The parent may ask the court to modify the plan to require different or additional services requested by the parent, but which the agency refused to provide. The court may approve the plan as presented by the agency or may modify the plan to require services requested by the parent. The court's approval shall be based on the content of the petition.

(d) Unless the parent agrees to comply with the terms of the out-of-home placement plan, the court may not order a parent to comply with the provisions of the plan until the court finds the child is in need of protection or services and orders disposition under section 260C.201, subdivision 1. However, the court may find that the responsible social services agency has made reasonable efforts for reunification if the agency makes efforts to implement the terms of an out-of-home placement plan approved under this section.

Sec. 14. Minnesota Statutes 2010, section 260C.193, subdivision 3, is amended to read:

Subd. 3. **Best interest of the child in foster care or residential care.** (a) The policy of the state is to ensure that the best interests of children in foster ~~or residential~~ care, who experience transfer of permanent legal and physical custody to a relative under section 260C.515, subdivision 4, or adoption under chapter 259 are met by requiring individualized determinations under section 260C.212, subdivision 2, paragraph (b), of the needs of the child and of how the selected ~~placement home~~ placement home will serve the needs of the child ~~in foster care placements~~.

(b) No later than three months after a child is ordered removed from the care of a parent in the hearing required under section 260C.202, the court shall review and enter findings regarding whether the responsible social services agency made:

(1) diligent efforts to identify and search for relatives as required under section 260C.212, subdivision 5, 260C.221; and made

(2) an individualized determination as required under section 260C.212, subdivision 2, to select a home that meets the needs of the child.

(c) If the court finds the agency has not made efforts as required under section 260C.212, subdivision 5 260C.221, and there is a relative who qualifies to be licensed to provide family foster care under chapter 245A, the court may order the child placed with the relative consistent with the child's best interests.

(d) If the agency's efforts under section 260C.221 are found to be sufficient, the court shall order the agency to continue to appropriately engage relatives who responded to the notice under section 260C.221 in placement and case planning decisions and to appropriately engage relatives who subsequently come to the agency's attention.

~~(e)~~ (e) If the child's birth parent or parents explicitly request that a relative or important friend not be considered, the court shall honor that request if it is consistent with the best interests of the child. If the child's birth parent or parents express a preference for placing the child in a foster or adoptive home of the same or a similar religious background to that of the birth parent or parents, the court shall order placement of the child with an individual who meets the birth parent's religious preference.

~~(f)~~ (f) Placement of a child cannot be delayed or denied based on race, color, or national origin of the foster parent or the child.

~~(g)~~ (g) Whenever possible, siblings should be placed together unless it is determined not to be in the best interests of a ~~sibling~~ siblings. If siblings ~~are were~~ not placed together according to section 260C.212, subdivision 2, paragraph (d), the responsible social services agency shall report to the court the efforts made to place the siblings together and why the efforts were not successful. If the court is not satisfied ~~with that the agency's~~ agency has made reasonable efforts to place siblings together, the court may must order the agency to make further reasonable efforts. If siblings are not placed together the court shall ~~review~~ order the responsible social services ~~agency's~~ agency to implement the plan for visitation among siblings required as part of the out-of-home placement plan under section 260C.212.

~~(h)~~ (h) This subdivision does not affect the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923, and the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835.

Sec. 15. Minnesota Statutes 2010, section 260C.193, subdivision 6, is amended to read:

Subd. 6. **Jurisdiction to review foster care to age 21, termination of jurisdiction, jurisdiction to age 18.** (a) Jurisdiction over a child in foster care pursuant to section 260C.451 ~~may~~ shall continue to age 21 for the purpose of conducting the reviews required under section ~~260C.201, subdivision 11, paragraph (d), 260C.212, subdivision 7, or 260C.317, subdivision 3, 260C.203, or 260C.515, subdivision 5 or 6.~~ Jurisdiction over a child in foster care pursuant to section 260C.451 shall not be terminated without giving the child notice of any motion or proposed order to dismiss jurisdiction and an opportunity to be heard on the appropriateness of the dismissal. When a child in foster care pursuant to section 260C.451 asks to leave foster care or actually leaves foster care, the court may terminate its jurisdiction.

(b) ~~Except when a court order is necessary for a child to be in foster care or when continued review under (1) section 260C.212, subdivision 7, paragraph (d), or 260C.201, subdivision 11, paragraph (d), and (2) section 260C.317, subdivision 3, is required for a child in foster care under section 260C.451, The court may terminate jurisdiction on its own motion or the motion of any interested party upon a determination that jurisdiction is no longer necessary to protect the child's best interests~~ except when:

(1) a court order is necessary for a child to be in foster care; or

(2) continued review under section 260C.203, 260C.515, subdivision 5 or 6, or 260C.317, subdivision 3, is required for a child in foster care under section 260C.451.

(c) Unless terminated by the court, and except as otherwise provided in this subdivision, the jurisdiction of the court shall continue until the child becomes 18 years of age. The court may continue jurisdiction over an individual and all other parties to the proceeding to the individual's 19th birthday when continuing jurisdiction is in the individual's best interest in order to:

(1) protect the safety or health of the individual;

(2) accomplish additional planning for independent living or for the transition out of foster care; or

(3) support the individual's completion of high school or a high school equivalency program.

Sec. 16. Minnesota Statutes 2010, section 260C.201, subdivision 2, is amended to read:

Subd. 2. **Written findings.** (a) Any order for a disposition authorized under this section shall contain written findings of fact to support the disposition and case plan ordered and shall also set forth in writing the following information:

(1) why the best interests and safety of the child are served by the disposition and case plan ordered;

(2) what alternative dispositions or services under the case plan were considered by the court and why such dispositions or services were not appropriate in the instant case;

(3) when legal custody of the child is transferred, the appropriateness of the particular placement made or to be made by the placing agency using the factors in section 260C.212, subdivision 2, paragraph (b);

(4) whether reasonable efforts to finalize the permanent plan for the child consistent with section 260.012 were made including reasonable efforts:

(i) to prevent or eliminate the necessity of the child's removal placement and to reunify the family after removal child with the parent or guardian from whom the child was removed at the earliest time consistent with the child's safety. The court's findings must include a brief description of what preventive and reunification efforts were made and why further efforts could not have prevented or eliminated the necessity of removal or that reasonable efforts were not required under section 260.012 or 260C.178, subdivision 1;

(ii) to identify and locate any noncustodial or nonresident parent of the child and to assess such parent's ability to provide day-to-day care of the child, and, where appropriate, provide services necessary to enable the noncustodial or nonresident parent to safely provide day-to-day care of the child as required under section 260C.219, unless such services are not required under section 260.012 or 260C.178, subdivision 1;

(iii) to make the diligent search for relatives and provide the notices required under section 260C.221; a finding made pursuant to a hearing under section 260C.202 that the agency has made diligent efforts to conduct a relative search and has appropriately engaged relatives who responded to the notice under section 260C.221 and other relatives, who came to the attention of the agency after notice under section 260C.221 was sent, in placement and case planning decisions fulfills the requirement of this item;

(iv) to identify and make a foster care placement in the home of an unlicensed relative, according to the requirements of section 245A.035, a licensed relative, or other licensed foster care provider who will commit to being the permanent legal parent or custodian for the child in the event reunification cannot occur, but who will actively support the reunification plan for the child; and

(v) to place siblings together in the same home or to ensure visitation is occurring when siblings are separated in foster care placement and visitation is in the siblings' best interests under section 260C.212, subdivision 2, paragraph (d); and

(5) if the child has been adjudicated as a child in need of protection or services because the child is in need of special services or care to treat or ameliorate a mental disability or emotional disturbance as defined in section 245.4871, subdivision 15, the written findings shall also set forth:

(i) whether the child has mental health needs that must be addressed by the case plan;

(ii) what consideration was given to the diagnostic and functional assessments performed by the child's mental health professional and to health and mental health care professionals' treatment recommendations;

(iii) what consideration was given to the requests or preferences of the child's parent or guardian with regard to the child's interventions, services, or treatment; and

(iv) what consideration was given to the cultural appropriateness of the child's treatment or services.

(b) If the court finds that the social services agency's preventive or reunification efforts have not been reasonable but that further preventive or reunification efforts could not permit the child to safely remain at home, the court may nevertheless authorize or continue the removal of the child.

(c) If the child has been identified by the responsible social services agency as the subject of concurrent permanency planning, the court shall review the reasonable efforts of the agency to ~~recruit, identify, and make a placement in a home where the foster parent or relative that has committed to being the legally permanent home for the child in the event reunification efforts are not successful~~ develop a permanency plan for the child that includes a primary plan which is for reunification with the child's parent or guardian and a secondary plan which is for an alternative, legally permanent home for the child in the event reunification cannot be achieved in a timely manner.

Sec. 17. Minnesota Statutes 2010, section 260C.201, subdivision 10, is amended to read:

Subd. 10. **Court review of foster care.** (a) If the court orders a child placed in foster care, the court shall review the out-of-home placement plan and the child's placement at least every 90 days as required in juvenile court rules to determine whether continued out-of-home placement is necessary and appropriate or whether the child should be returned home. This review is not required if the court has returned the child home, ordered the child permanently placed away from the parent under subdivision 11, or terminated rights under section 260C.301. Court review for a child permanently placed away from a parent, including where the child is under guardianship ~~and legal custody~~ of the commissioner, shall be governed by ~~subdivision 11 or section 260C.317, subdivision 3, whichever is applicable~~ 260C.607.

(b) No later than ~~six~~ three months after the child's placement in foster care, the court shall review agency efforts pursuant to section ~~260C.212, subdivision 2~~ 260C.221, and order that the efforts continue if the agency has failed to perform the duties under that section. The court must order the agency to continue to appropriately engage relatives who responded to the notice under section 260C.221 in placement and case planning decisions and to engage other relatives who came to the agency's attention after notice under section 260C.221 was sent.

(c) The court shall review the out-of-home placement plan and may modify the plan as provided under subdivisions 6 and 7.

(d) When the court orders transfer of custody to a responsible social services agency resulting in foster care or protective supervision with a noncustodial parent under subdivision 1, the court shall notify the parents of the provisions of ~~subdivisions 11 and~~ subdivision 11a and sections 260C.503 to 260C.521, as required under juvenile court rules.

(e) When a child remains in or returns to foster care pursuant to section 260C.451 and the court has jurisdiction pursuant to section 260C.193, subdivision 6, paragraph (c), the court shall at least annually conduct the review required under ~~subdivision 11, paragraph (d), or sections 260C.212, subdivision 7, and 260C.317, subdivision 3~~ section 260C.203.

Sec. 18. Minnesota Statutes 2010, section 260C.212, subdivision 5, is amended to read:

Subd. 5. **Relative search.** (a) The responsible social services agency shall exercise due diligence to identify and notify adult relatives prior to placement or within 30 days after the child's removal from the parent. The county agency shall consider placement with a relative under subdivision 2 without delay and whenever the child must move from or be returned to foster care. 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~~. After a finding that the agency has made reasonable efforts to conduct the relative search under this paragraph, the agency has the continuing responsibility to appropriately involve relatives, who have responded to the notice required under this paragraph, in planning for the child and to continue to consider relatives according to the requirements of section 260C.212, subdivision 2. At any time during the course of juvenile protection proceedings, the court may order the agency to reopen its search for relatives when it is in the child's best interest to do so. 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 search shall also include getting information from the child in an age-appropriate manner about who the child considers to be family members and important friends with whom the child has resided or had significant contact. The relative search required under this section must fulfill the agency's duties under the Indian Child Welfare Act regarding active efforts to prevent the breakup of the Indian family under United States Code, title 25, section 1912(d), and to meet placement preferences under United States Code, title 25, section 1915. The relatives must be notified:

(1) of the need for a foster home for the child, the option to become a placement resource for the child, and the possibility of the need for a permanent placement for the child;

(2) of their responsibility to keep the responsible social services agency informed of their current address in order to receive notice in the event that a permanent placement is 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 identified as a potential permanent placement resource or participate in planning for the child at the beginning of the case shall not affect whether the relative is considered for placement of the child with that relative later;

(3) that the relative may participate in the care and planning for the child, including that the opportunity for such participation may be lost by failing to respond to the notice. "Participate in the care and planning" includes, but is not limited to, participation in case planning for the parent and child, identifying the strengths and needs of the parent and child, supervising visits, providing respite and vacation visits for the child, providing transportation to appointments, suggesting other relatives who might be able to help support the case plan, and to the extent possible, helping to maintain the child's familiar and regular activities and contact with friends and relatives; and

(4) of the family foster care licensing requirements, including how to complete an application and how to request a variance from licensing standards that do not present a safety or health risk to the child in the home under section 245A.04 and supports that are available for relatives and children who reside in a family foster home; and

(5) of the relatives' right to ask to be notified of any court proceedings regarding the child, to attend the hearings, and of a relative's right or opportunity to be heard by the court as required under section 260C.152, subdivision 5.

(b) A responsible social services agency may disclose private ~~or confidential~~ data, as defined in ~~section~~ sections 13.02 and 626.556, to relatives of the child for the purpose of locating and assessing a suitable placement and may use any reasonable means of identifying and locating relatives including the Internet or other electronic means of conducting a search. The agency shall disclose ~~only~~ data that is necessary to facilitate possible placement with relatives and to ensure that the relative is informed of the needs of the child so the relative can participate in planning for the child and be supportive of services to the child and family. 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 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) At a regularly scheduled hearing not later than three months after the child's placement in foster care and as required in section 260C.202, the agency shall report to the court:

(1) its efforts to identify maternal and paternal relatives of the child, to engage the relatives in providing support for the child and family, and document that the relatives have been provided the notice required under paragraph (a); and

(2) its decision regarding placing the child with a relative as required under section 260C.212, subdivision 2, and to ask relatives to visit or maintain contact with the child in order to support family connections for the child, when placement with a relative is not possible or appropriate.

(d) Notwithstanding chapter 13, the agency shall disclose data about particular relatives identified, searched for, and contacted for the purposes of the court's review of the agency's due diligence.

(e) When the court is satisfied that the agency has exercised due diligence to identify relatives and provide the notice required in paragraph (a), the court may find that reasonable efforts have been made to conduct a relative search to identify and provide notice to adult relatives as required under section 260.012, paragraph (e), clause (3). If the court is not satisfied that the agency has exercised due diligence to identify relatives and provide the notice required in paragraph (a), the court may order the agency to continue its search and notice efforts and to report back to the court.

(f) When the placing agency determines that a permanent placement ~~hearing is~~ proceedings are necessary because there is a likelihood that the child will not return to a parent's care, the agency ~~may~~ must send the notice provided in paragraph ~~(d)~~ (g), may ask the court to modify the ~~requirements~~ duty of the agency ~~under this paragraph~~ to send the notice required in paragraph (g), or may ask the court to completely relieve the agency of the requirements of ~~this paragraph (g)~~. The relative notification requirements of ~~this paragraph (g)~~ do not apply when the child is placed with an appropriate relative or a foster home that has committed to ~~being the adopting the child or taking~~ permanent legal placement for and physical custody of 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, permanency, and welfare of the child.

~~(d)~~ (g) Unless required under the Indian Child Welfare Act or relieved of this duty by the court under paragraph ~~(e)~~ (c), when the agency determines that it is necessary to prepare for ~~the~~ permanent placement determination ~~hearing proceedings~~, 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. 19. Minnesota Statutes 2010, section 260C.212, subdivision 7, is amended to read:

Subd. 7. **Administrative or court review of placements.** (a) Unless the court is conducting the reviews required under section 260C.202, there shall be an administrative review of the out-of-home placement plan of each child placed in foster care no later than 180 days after the initial placement of the child in foster care and at least every six months thereafter if the child is not returned to the home of the parent or parents within that time. The out-of-home placement plan must be monitored and updated at each administrative review. The administrative review shall be conducted by the responsible social services agency using a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review. The administrative review shall be open to participation by the parent or guardian of the child and the child, as appropriate.

(b) As an alternative to the administrative review required in paragraph (a), the court may, as part of any hearing required under the Minnesota Rules of Juvenile Protection Procedure, conduct a hearing to monitor and update the out-of-home placement plan pursuant to the procedure and standard in section 260C.201, subdivision 6, paragraph (d). The party requesting review of the out-of-home placement plan shall give parties to the proceeding notice of the request to review and update the out-of-home placement plan. A court review conducted pursuant to section 260C.141, subdivision 2; 260C.193; 260C.201, subdivision 1 ~~or 11; 260C.141, subdivision 2; 260C.317 260C.202; 260C.204; 260C.317;~~ or 260D.06 shall satisfy the requirement for the review so long as the other requirements of this section are met.

(c) As appropriate to the stage of the proceedings and relevant court orders, the responsible social services agency or the court shall review:

- (1) the safety, permanency needs, and well-being of the child;
- (2) the continuing necessity for and appropriateness of the placement;
- (3) the extent of compliance with the out-of-home placement plan;
- (4) the extent of progress ~~which~~ that has been made toward alleviating or mitigating the causes necessitating placement in foster care;
- (5) the projected date by which the child may be returned to and safely maintained in the home or placed permanently away from the care of the parent or parents or guardian; and
- (6) the appropriateness of the services provided to the child.

(d) When a child is age 16 or older, in addition to any administrative review conducted by the agency, at the in-court review required under section ~~260C.201, subdivision 11, or~~ 260C.317, subdivision 3, clause (3), ~~or 260C.515, subdivision 5 or 6,~~ the court shall review the independent living plan required under section 260C.201, subdivision 1, paragraph (c), clause (11), and the provision of services to the child related to the well-being of the child as the child prepares to leave foster care. The review shall include the actual plans related to each item in the plan necessary to the child's future safety and well-being when the child is no longer in foster care.

~~(e)~~ (e) At the court review required under paragraph (d) for a child age 16 or older the following procedures apply:

(1) six months before the child is expected to be discharged from foster care, the responsible social services agency shall ~~establish that it has given~~ give the written notice required under section ~~260C.456 or Minnesota Rules, part 9560.0660~~ 260C.451, subdivision 1, regarding the right to continued access to services for certain children in foster care past age 18 and of the right to appeal a denial of social services under section 256.045. ~~¶ The agency is unable to establish that~~ shall file a copy of the notice, including the right to appeal a denial of social services, ~~has been given,~~ with the court. If the agency does not file the notice by the time the child is age 17-1/2, the court shall require the agency to give it;

(2) consistent with the requirements of the independent living plan, the court shall review progress toward or accomplishment of the following goals:

- (i) the child has obtained a high school diploma or its equivalent;
- (ii) the child has completed a driver's education course or has demonstrated the ability to use public transportation in the child's community;
- (iii) the child is employed or enrolled in postsecondary education;
- (iv) the child has applied for and obtained postsecondary education financial aid for which the child is eligible;
- (v) the child has health care coverage and health care providers to meet the child's physical and mental health needs;
- (vi) the child has applied for and obtained disability income assistance for which the child is eligible;
- (vii) the child has obtained affordable housing with necessary supports, which does not include a homeless shelter;
- (viii) the child has saved sufficient funds to pay for the first month's rent and a damage deposit;

(ix) the child has an alternative affordable housing plan, which does not include a homeless shelter, if the original housing plan is unworkable;

(x) the child, if male, has registered for the Selective Service; and

(xi) the child has a permanent connection to a caring adult; and

(3) the court shall ensure that the responsible agency in conjunction with the placement provider assists the child in obtaining the following documents prior to the child's leaving foster care: a Social Security card; the child's birth certificate; a state identification card or driver's license, green card, or school visa; the child's school, medical, and dental records; a contact list of the child's medical, dental, and mental health providers; and contact information for the child's siblings, if the siblings are in foster care.

~~(e) When a child is age 17 or older, during the 90-day period immediately prior to the date the child is expected to be discharged from foster care, the responsible social services agency is required to provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child. (f) For a child who will be discharged from foster care at age 18 or older, the responsible social services agency is required to develop a personalized transition plan as directed by the youth. The transition plan must be developed during the 90-day period immediately prior to the expected date of discharge.~~ The transition plan must be as detailed as the child may elect and include specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services. The plan must include information on the importance of designating another individual to make health care treatment decisions on behalf of the child if the child becomes unable to participate in these decisions and the child does not have, or does not want, a relative who would otherwise be authorized to make these decisions. The plan must provide the child with the option to execute a health care directive as provided under chapter 145C. The county shall also provide the individual with appropriate contact information if the individual needs more information or needs help dealing with a crisis situation through age 21.

Sec. 20. Minnesota Statutes 2010, section 260C.215, subdivision 4, is amended to read:

Subd. 4. ~~Consultation with representatives~~ **Duties of commissioner.** The commissioner of human services, after seeking and considering advice from representatives reflecting diverse populations from the councils established under sections 3.922, 3.9223, 3.9225, and 3.9226, and other state, local, and community organizations shall:

(1) ~~review and, where necessary, revise the Department of Human Services Social Service Manual and Practice Guide~~ provide practice guidance to responsible social services agencies and child-placing agencies that reflect federal and state laws and policy direction on placement of children;

(2) develop criteria for determining whether a prospective adoptive or foster family has the ability to understand and validate the child's cultural background;

(3) ~~develop~~ provide a standardized training curriculum for adoption and foster care workers, ~~family-based providers,~~ and administrators who work with children. Training must address the following objectives:

~~(a)~~ (i) developing and maintaining sensitivity to all cultures;

~~(b)~~ (ii) assessing values and their cultural implications; ~~and~~

~~(c)~~ (iii) making individualized placement decisions that advance the best interests of a particular child under section 260C.212, subdivision 2; and

(iv) issues related to cross-cultural placement;

(4) ~~develop~~ provide a training curriculum for ~~family and extended family members~~ all prospective adoptive and foster families that prepares them to care for the needs of adoptive and foster children. ~~The curriculum must address issues relating to cross cultural placements as well as issues that arise after a foster or adoptive placement is made taking into consideration the needs of children outlined in section 260C.212, subdivision 2, paragraph (b); and~~

(5) develop and provide to agencies ~~an assessment tool to be used in combination with group interviews and other preplacement activities~~ a home study format to ~~evaluate~~ assess the capacities and needs of prospective adoptive and foster families. The ~~tool~~ format must ~~assess~~ address problem-solving skills; ~~identify~~ parenting skills; ~~and~~ evaluate the degree to which the prospective family has the ability to understand and validate the child's cultural background, and other issues needed to provide sufficient information for agencies to make an individualized placement decision consistent with section 260C.212, subdivision 2. If a prospective adoptive parent has also been a foster parent, any update necessary to a home study for the purpose of adoption may be completed by the licensing authority responsible for the foster parent's license. If a prospective adoptive parent with an approved adoptive home study also applies for a foster care license, the license application may be made with the same agency which provided the adoptive home study; and

(6) shall consult with representatives reflecting diverse populations from the councils established under sections 3.922, 3.9223, 3.9225, and 3.9226, and other state, local, and community organizations.

Sec. 21. Minnesota Statutes 2010, section 260C.215, subdivision 6, is amended to read:

Subd. 6. **Duties of child-placing agencies.** (a) Each authorized child-placing agency must:

(1) develop and follow procedures for implementing the requirements of section ~~260C.193, subdivision 3~~ 260C.212, subdivision 2, and the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923;

(2) have a written plan for recruiting adoptive and foster families that reflect the ethnic and racial diversity of children who are in need of foster and adoptive homes. The plan must include;

(i) strategies for using existing resources in diverse communities;

(ii) use of diverse outreach staff wherever possible;

(iii) use of diverse foster homes for placements after birth and before adoption; and

(iv) other techniques as appropriate;

(3) have a written plan for training adoptive and foster families;

(4) have a written plan for employing staff in adoption and foster care who have the capacity to assess the foster and adoptive parents' ability to understand and validate a child's cultural and meet the child's individual needs, and to advance the best interests of the child, as required in section 260C.212, subdivision 2. The plan must include staffing goals and objectives;

(5) ensure that adoption and foster care workers attend training offered or approved by the Department of Human Services regarding cultural diversity and the needs of special needs children; and

(6) develop and implement procedures for implementing the requirements of the Indian Child Welfare Act and the Minnesota Indian Family Preservation Act.

(b) In determining the suitability of a proposed placement of an Indian child, the standards to be applied must be the prevailing social and cultural standards of the Indian child's community, and the agency shall defer to tribal judgment as to suitability of a particular home when the tribe has intervened pursuant to the Indian Child Welfare Act.

**Sec. 22. [260C.229] VOLUNTARY FOSTER CARE FOR CHILDREN OVER AGE 18; REQUIRED COURT REVIEW.**

(a) When a child asks to continue or to reenter foster care after age 18 under section 260C.451, the child and the responsible social services agency may enter into a voluntary agreement for the child to be in foster care under the terms of section 260C.451. The voluntary agreement must be in writing and on a form prescribed by the commissioner.

(b) When the child is in foster care pursuant to a voluntary foster care agreement between the agency and child and the child is not already under court jurisdiction pursuant to section 260C.193, subdivision 6, the agency responsible for the child's placement in foster care shall:

(1) file a motion to reopen the juvenile protection matter where the court previously had jurisdiction over the child within 30 days of the child and the agency executing the voluntary placement agreement under paragraph (a) and ask the court to review the child's placement in foster care and find that the placement is in the best interests of the child; and

(2) file the out-of-home placement plan required under subdivision 1 with the motion to reopen jurisdiction.

(c) The court shall conduct a hearing on the matter within 30 days of the agency's motion to reopen the matter and, if the court finds that placement is in the best interest of the child, shall conduct the review for the purpose and with the content required under section 260C.203, at least every 12 months as long as the child continues in foster care.

Sec. 23. Minnesota Statutes 2010, section 260C.301, subdivision 8, is amended to read:

Subd. 8. **Findings regarding reasonable efforts.** In any proceeding under this section, the court shall make specific findings:

(1) that reasonable efforts to ~~prevent the placement and~~ finalize the permanency plan to reunify the child and the parent were made including individualized and explicit findings regarding the nature and extent of efforts made by the social services agency to rehabilitate the parent and reunite the family; or

(2) that reasonable efforts ~~at~~ for reunification are not required as provided under section 260.012.

Sec. 24. Minnesota Statutes 2010, section 260C.328, is amended to read:

**260C.328 CHANGE OF GUARDIAN; TERMINATION OF GUARDIANSHIP.**

(a) Upon its own motion or upon petition of an interested party, the juvenile court having jurisdiction of the child may, after notice to the parties and a hearing, remove the guardian appointed by the juvenile court and appoint a new guardian in accordance with the provisions of section 260C.325, subdivision 1, clause (a), (b), or (c). Upon a showing that the child is emancipated, the court may discharge the guardianship. Any child 14 years of age or older who is not adopted but who is placed in a satisfactory foster home, may, with the consent of the foster parents, join with the guardian appointed by the juvenile court in a petition to the court having jurisdiction of the child to discharge the existing guardian and appoint the foster parents as guardians of the child.

(b) The authority of a guardian appointed by the juvenile court terminates when the individual under guardianship is no longer a minor or when guardianship is otherwise discharged becomes age 18. However, an individual who has been under the guardianship of the commissioner and who has not been adopted may continue in foster care or reenter foster care pursuant to section 260C.451 and the responsible social services agency has continuing legal responsibility for the placement of the individual.

Sec. 25. Minnesota Statutes 2010, section 260C.451, is amended to read:

**260C.451 FOSTER CARE BENEFITS TO AGE 21 PAST AGE 18.**

Subdivision 1. **Notification of benefits.** ~~Within the~~ Six months prior to the child's 18th birthday, the ~~local~~ responsible social services agency shall ~~advise~~ provide written notice on a form prescribed by the commissioner of human services to any child in foster care under this chapter who cannot reasonably be expected to return home or have another legally permanent family by the age of 18, the child's parents or legal guardian, if any, ~~and~~ the child's guardian ad litem, and the child's foster parents of the availability of ~~benefits of the foster care program~~ up to age 21, when the child is eligible under subdivisions 3 and 3a.

Subd. 2. **Independent living plan.** Upon the request of any child ~~receiving in~~ foster care ~~benefits~~ immediately prior to the child's 18th birthday and who is in foster care at the time of the request, the ~~local~~ responsible social services agency shall, in conjunction with the child and other appropriate parties, update the independent living plan required under section 260C.212, subdivision 1, paragraph (c), clause (11), related to the child's employment, vocational, educational, social, or maturational needs. The agency shall provide continued services and foster care for the child including those services that are necessary to implement the independent living plan.

Subd. 3. **Eligibility to continue in foster care.** A child ~~already~~ in foster care immediately prior to the child's 18th birthday may continue in foster care past age 18 unless:

(1) the child can safely return home;

(2) the child is in placement pursuant to the agency's duties under section 256B.092 and Minnesota Rules, parts 9525.0004 to 9525.0016, to meet the child's needs due to developmental disability or related condition, and the child will be served as an adult under section 256B.092 and Minnesota Rules, parts 9525.0004 to 9525.0016; or

(3) the child can be adopted or have permanent legal and physical custody transferred to a relative prior to the child's 18th birthday.

Subd. 3a. **Eligibility criteria.** The child must meet at least one of the following conditions to be considered eligible to continue in or return to foster care and remain there to age 21. The child must be:

(1) completing secondary education or a program leading to an equivalent credential;

(2) enrolled in an institution ~~which~~ that provides postsecondary or vocational education;

(3) participating in a program or activity designed to promote or remove barriers to employment;

(4) employed for at least 80 hours per month; or

(5) incapable of doing any of the activities described in clauses (1) to (4) due to a medical condition.

Subd. 4. **Foster care benefits.** For children between the ages of 18 and 21, "foster care benefits" means payment for those foster care settings defined in section 260C.007, subdivision 18. Additionally, foster care benefits means payment for a supervised setting, approved by the responsible social services agency, in which a child may live independently.

Subd. 5. ~~Permanent decision~~ **Foster care setting.** The particular foster care setting, including supervised settings, shall be selected by the agency and the child based on the best interest of the child consistent with section 260C.212, subdivision 2. Supervision in approved settings must be determined by an individual determination of the child's needs by the responsible social services agency and consistent with section 260C.212, subdivision 4a.

Subd. 6. ~~Individual plan to age 21~~ **Reentering foster care and accessing services after age 18.** (a) Upon request of an individual between the ages of 18 and 21 who, ~~within six months of the individual's 18th birthday~~, had been under the guardianship of the commissioner and who has left foster care without being adopted, the responsible social services agency which had been the commissioner's agent for purposes of the guardianship shall develop with the individual a plan related to the individual's vocational, educational, social, or maturational needs to increase the individual's ability to live safely and independently using the plan requirements of section 260C.212, subdivision 1, paragraph (b), clause (11), and to assist the individual to meet one or more of the eligibility criteria in subdivision 4 if the individual wants to reenter foster care. The agency shall provide foster care ~~with maintenance and counseling benefits~~ as required to implement the plan. The agency shall enter into a voluntary placement agreement under section 260C.229 with the individual if the plan includes foster care.

(b) Individuals who had not been under the guardianship of the commissioner of human services prior to age 18 and are between the ages of 18 and 21 may ask to reenter foster care after age 18 and, to the extent funds are available, the responsible social services agency that had responsibility for planning for the individual before discharge from foster care may provide foster care or other services to the individual for the purpose of increasing the individual's ability to live safely and independently and to meet the eligibility criteria in subdivision 3a, if the individual:

(1) was in foster care for the six consecutive months prior to the person's 18th birthday and was not discharged home, adopted, or received into a relative's home under a transfer of permanent legal and physical custody under section 260C.515, subdivision 4; or

(2) was discharged from foster care while on runaway status after age 15.

(c) In conjunction with a qualifying and eligible individual under paragraph (b) and other appropriate persons, the responsible social services agency shall develop a specific plan related to that individual's vocational, educational, social, or maturational needs and, to the extent funds are available, provide foster care as required to implement the plan. The agency shall enter into a voluntary placement agreement with the individual if the plan includes foster care.

(d) Youth who left foster care while under guardianship of the commissioner of human services retain eligibility for foster care for placement at any time between the ages of 18 and 21.

Subd. 7. **Jurisdiction.** ~~Notwithstanding that the court retains jurisdiction pursuant to this section,~~ Individuals in foster care pursuant to this section are adults for all purposes except the continued provision of foster care. Any order establishing guardianship under section 260C.325, any legal custody order under section 260C.201, subdivision 1, and any order for legal custody associated with an order for ~~long-term foster care~~ permanent custody under section ~~260C.201, subdivision 4~~ 260C.515, subdivision 5, terminates on the child's 18th birthday. The responsible social services agency has legal responsibility for the individual's placement and care when the matter continues under court jurisdiction pursuant to section 260C.193 or when the individual and the responsible agency execute a voluntary placement agreement pursuant to section 260C.229.

Subd. 8. **Notice of termination of foster care.** When a child in foster care between the ages of 18 and 21 ceases to meet one of the eligibility criteria of subdivision 3a, the responsible social services agency shall give the child written notice that foster care will terminate 30 days from the date the notice is sent. The child or the child's guardian ad litem may file a motion asking the court to review the agency's determination within 15 days of receiving the notice. The child shall not be discharged from foster care until the motion is heard. The agency shall work with the child to transition out of foster care as required under section 260C.203, paragraph (e). The written notice of termination of benefits shall be on a form prescribed by the commissioner and shall also give notice of the right to have the agency's determination reviewed by the court in the proceeding where the court conducts the reviews required under section 260C.203, 260C.317, or 260C.515, subdivision 5 or 6. A copy of the termination notice shall be sent to the child and the child's attorney, if any, the foster care provider, the child's guardian ad litem, and the court. The agency is not responsible for paying foster care benefits for any period of time after the child actually leaves foster care.

Sec. 26. **[260C.503] PERMANENCY PROCEEDINGS.**

Subdivision 1. **Required permanency proceedings.** Except for children in foster care pursuant to chapter 260D, where the child is in foster care or in the care of a noncustodial or nonresident parent, the court shall commence proceedings to determine the permanent status of a child by holding the admit-deny hearing required under section 260C.507 not later than 12 months after the child is placed in foster care or in the care of a noncustodial or nonresident parent. Permanency proceedings for children in foster care pursuant to chapter 260D shall be according to section 260D.07.

Subd. 2. **Termination of parental rights.** (a) The responsible social services agency must ask the county attorney to immediately file a termination of parental rights petition when:

(1) the child has been subjected to egregious harm as defined in section 260C.007, subdivision 14;

(2) the child is determined to be the sibling of a child who was subjected to egregious harm;

(3) the child is an abandoned infant as defined in section 260C.301, subdivision 3, paragraph (b), clause (2);

(4) the child's parent has lost parental rights to another child through an order involuntarily terminating the parent's rights;

(5) the parent has committed sexual abuse as defined in section 626.556, subdivision 2, against the child or another child of the parent;

(6) the parent has committed an offense that requires registration as a predatory offender under section 243.166, subdivision 1b, paragraph (a) or (b); or

(7) another child of the parent is the subject of an order involuntarily transferring permanent legal and physical custody of the child to a relative under this chapter or a similar law of another jurisdiction;

The county attorney shall file a termination of parental rights petition unless the conditions of paragraph (d) are met.

(b) When the termination of parental rights petition is filed under this subdivision, the responsible social services agency shall identify, recruit, and approve an adoptive family for the child. If a termination of parental rights petition has been filed by another party, the responsible social services agency shall be joined as a party to the petition.

(c) If criminal charges have been filed against a parent arising out of the conduct alleged to constitute egregious harm, the county attorney shall determine which matter should proceed to trial first, consistent with the best interests of the child and subject to the defendant's right to a speedy trial.

(d) The requirement of paragraph (a) does not apply if the responsible social services agency and the county attorney determine and file with the court:

(1) a petition for transfer of permanent legal and physical custody to a relative under sections 260C.505 and 260C.515, subdivision 3, including a determination that adoption is not in the child's best interests and that transfer of permanent legal and physical custody is in the child's best interests; or

(2) a petition under section 260C.141 alleging the child, and where appropriate, the child's siblings, to be in need of protection or services accompanied by a case plan prepared by the responsible social services agency documenting a compelling reason why filing a termination of parental rights petition would not be in the best interests of the child.

**Subd. 3. Calculating time to required permanency proceedings.** (a) For purposes of this section, the date of the child's placement in foster care is the earlier of the first court-ordered placement or 60 days after the date on which the child has been voluntarily placed in foster care by the child's parent or guardian. For purposes of this section, time spent by a child in the home of the noncustodial parent pursuant to court order under section 260C.178 or under the protective supervision of the responsible social services agency in the home of the noncustodial parent pursuant to an order under section 260C.201, subdivision 1, counts towards the requirement of a permanency hearing under this section. Time spent on a trial home visit counts towards the requirement of a permanency hearing under this section and the permanency progress review required under section 260C.204.

(b) For the purposes of this section, 12 months is calculated as follows:

(1) during the pendency of a petition alleging that a child is in need of protection or services, all time periods when a child is placed in foster care or in the home of a noncustodial parent are cumulated;

(2) if a child has been placed in foster care within the previous five years under one or more previous petitions, the lengths of all prior time periods when the child was placed in foster care within the previous five years are cumulated. If a child under this clause has been in foster care for 12 months or more, the court, if it is in the best interests of the child and for compelling reasons, may extend the total time the child may continue out of the home under the current petition up to an additional six months before making a permanency determination.

(c) If the child is on a trial home visit 12 months after the child was placed in foster care or in the care of a noncustodial parent, the responsible social services agency may file a report with the court regarding the child's and parent's progress on the trial home visit and the agency's reasonable efforts to finalize the child's safe and permanent return to the care of the parent in lieu of filing the petition required under section 260C.505. The court shall make findings regarding the reasonable efforts of the agency to finalize the child's return home as the permanency disposition order in the best interests of the child. The court may continue the trial home visit to a total time not to exceed six months as provided in section 260C.201, subdivision 1, paragraph (a), clause (3). If the court finds the agency has not made reasonable efforts to finalize the child's return home as the permanency disposition order in the child's best interests, the court may order other or additional efforts to support the child remaining in the care of the parent. If a trial home visit ordered or continued at permanency proceedings under sections 260C.503 to 260C.521 terminates, the court shall commence or recommence permanency proceedings under this chapter no later than 30 days after the child is returned to foster care or to the care of a noncustodial parent.

Sec. 27. **[260C.505] PETITION.**

(a) A permanency or termination of parental rights petition must be filed at or prior to the time the child has been in foster care or in the care of a noncustodial or nonresident parent for 11 months or in the expedited manner required in section 260C.503, subdivision 2, paragraph (a). The court administrator shall serve the petition as required in the Minnesota Rules of Juvenile Protection Procedure and section 260C.152 for the admit-deny hearing on the petition required in section 260C.507.

(b) A petition under this section is not required if the responsible social services agency intends to recommend that the child return to the care of the parent from whom the child was removed at or prior to the time the court is required to hold the admit-deny hearing required under section 260C.507.

Sec. 28. **[260C.507] ADMIT-DENY HEARING.**

(a) An admit-deny hearing on the permanency or termination of parental rights petition shall be held not later than 12 months from the child's placement in foster care or an order for the child to be in the care of a noncustodial or nonresident parent.

(b) An admit-deny hearing on the termination of parental rights or transfer of permanent legal and physical custody petition required to be immediately filed under section 260C.503, subdivision 2, paragraph (a), shall be within ten days of the filing of the petition.

(c) At the admit-deny hearing, the court shall determine whether there is a prima facie basis for finding that the agency made reasonable efforts, or in the case of an Indian child active efforts, for reunification as required or that reasonable efforts for reunification are not required under section 260.012 and proceed according to the Minnesota Rules of Juvenile Protection Procedure.

Sec. 29. **[260C.509] TRIAL.**

The permanency proceedings shall be conducted in a timely fashion including that any trial required under section 260C.163 shall be commenced within 60 days of the admit-deny hearing required under section 260C.507. At the conclusion of the permanency proceedings, the court shall:

(1) order the child returned to the care of the parent or guardian from whom the child was removed; or

(2) order a permanency disposition under section 260C.515 or termination of parental rights under sections 260C.301 to 260C.328 if a permanency disposition order or termination of parental rights is in the child's best interests.

Sec. 30. **[260C.511] BEST INTERESTS OF THE CHILD.**

(a) The "best interests of the child" means all relevant factors to be considered and evaluated.

(b) In making a permanency disposition order or termination of parental rights, the court must be governed by the best interests of the child, including a review of the relationship between the child and relatives and the child and other important persons with whom the child has resided or had significant contact.

Sec. 31. **[260C.513] PERMANENCY DISPOSITIONS WHEN CHILD CANNOT RETURN HOME.**

(a) Termination of parental rights and adoption, or guardianship to the commissioner of human services through a consent to adopt are preferred permanency options for a child who cannot return home. If the court finds that termination of parental rights and guardianship to the commissioner is not in the child's best interests, the court may transfer permanent legal and physical custody of the child to a relative when that order is in the child's best interests.

(b) When the court has determined that permanent placement of the child away from the parent is necessary, the court shall consider permanent alternative homes that are available both inside and outside the state.

Sec. 32. **[260C.515] PERMANENCY DISPOSITION ORDERS.**

Subdivision 1. **Court order required.** If the child is not returned to the home at or before the conclusion of permanency proceedings under sections 260C.503 to 260C.521, the court must order one of the permanency dispositions in this section.

Subd. 2. **Termination of parental rights.** The court may order:

(1) termination of parental rights when the requirements of sections 260C.301 to 260C.328 are met; or

(2) the responsible social services agency to file a petition for termination of parental rights in which case all the requirements of sections 260C.301 to 260C.328 remain applicable.

Subd. 3. **Guardianship; commissioner.** The court may order guardianship to the commissioner of human services under the following procedures and conditions:

(1) there is an identified prospective adoptive parent agreed to by the responsible social services agency having legal custody of the child pursuant to court order under this chapter and that prospective adoptive parent has agreed to adopt the child;

(2) the court accepts the parent's voluntary consent to adopt in writing on a form prescribed by the commissioner, executed before two competent witnesses and confirmed by the consenting parent before the court or executed before court. The consent shall contain notice that consent given under this chapter:

(i) is irrevocable upon acceptance by the court unless fraud is established and an order issues permitting revocation as stated in clause (9) unless the matter is governed by the Indian Child Welfare Act, United States Code, title 25, section 1913(c); and

(ii) will result in an order that the child is under the guardianship of the commissioner of human services;

(3) a consent executed and acknowledged outside of this state, either in accordance with the law of this state or in accordance with the law of the place where executed, is valid;

(4) the court must review the matter at least every 90 days under section 260C.317;

(5) a consent to adopt under this subdivision vests guardianship of the child with the commissioner of human services and makes the child a ward of the commissioner of human services under section 260C.325;

(6) the court must forward to the commissioner a copy of the consent to adopt, together with a certified copy of the order transferring guardianship to the commissioner;

(7) if an adoption is not finalized by the identified prospective adoptive parent within six months of the execution of the consent to adopt under this clause, the responsible social services agency shall pursue adoptive placement in another home unless the court finds in a hearing under section 260C.317 that the failure to finalize is not due to either an action or a failure to act by the prospective adoptive parent;

(8) notwithstanding clause (7), the responsible social services agency must pursue adoptive placement in another home as soon as the agency determines that finalization of the adoption with the identified prospective adoptive parent is not possible, that the identified prospective adoptive parent is not willing to adopt the child, or that the identified prospective adoptive parent is not cooperative in completing the steps necessary to finalize the adoption;

(9) unless otherwise required by the Indian Child Welfare Act, United States Code, title 25, section 1913(c), a consent to adopt executed under this section shall be irrevocable upon acceptance by the court except upon order permitting revocation issued by the same court after written findings that consent was obtained by fraud.

Subd. 4. **Custody to relative.** The court may order permanent legal and physical custody to a relative in the best interests of the child according to the following conditions:

(1) an order for transfer of permanent legal and physical custody to a relative shall only be made after the court has reviewed the suitability of the prospective legal and physical custodian;

(2) in transferring permanent legal and physical custody to a relative, the juvenile court shall follow the standards applicable under this chapter and chapter 260, and the procedures in the Minnesota Rules of Juvenile Protection Procedure;

(3) a transfer of legal and physical custody includes responsibility for the protection, education, care, and control of the child and decision making on behalf of the child;

(4) a permanent legal and physical custodian may not return a child to the permanent care of a parent from whom the court removed custody without the court's approval and without notice to the responsible social services agency;

(5) the social services agency may file a petition naming a fit and willing relative as a proposed permanent legal and physical custodian;

(6) another party to the permanency proceeding regarding the child may file a petition to transfer permanent legal and physical custody to a relative, but the petition must be filed not later than the date for the required admit/deny hearing under section 260C.507; or if the agency's petition is filed under section 260C.503, subdivision 2, the petition must be filed not later than 30 days prior to the trial required under section 260C.509; and

(7) the juvenile court may maintain jurisdiction over the responsible social services agency, the parents or guardian of the child, the child, and the permanent legal and physical custodian for purposes of ensuring appropriate services are delivered to the child and permanent legal custodian for the purpose of ensuring conditions ordered by the court related to the care and custody of the child are met.

Subd. 5. **Permanent custody to agency.** The court may order permanent custody to the responsible social services agency for continued placement of the child in foster care but only if it approves the responsible social services agency's compelling reasons that no other permanency disposition order is in the child's best interests, and:

(1) the child has reached age 12;

(2) the child is a sibling of a child described in clause (1) and the siblings have a significant positive relationship and are ordered into the same foster home;

(3) the responsible social services agency has made reasonable efforts to locate and place the child with an adoptive family or a fit and willing relative who would either agree to adopt the child or to a transfer of permanent legal and physical custody of the child, but these efforts have not proven successful; and

(4) the parent will continue to have visitation or contact with the child and will remain involved in planning for the child.

**Subd. 6. Temporary legal custody to agency.** The court may order temporary legal custody to the responsible social services agency for continued placement of the child in foster care for a specified period of time according to the following conditions:

(1) the sole basis for an adjudication that the child is in need of protection or services is the child's behavior;

(2) the court finds that foster care for a specified period of time is in the best interests of the child;

(3) the court approves the responsible social services agency's compelling reasons that neither an award of permanent legal and physical custody to a relative, nor termination of parental rights is in the child's best interests; and

(4) the order specifies that the child continue in foster care no longer than one year.

**Sec. 33. [260C.517] FINDINGS AND CONTENT OF ORDER FOR PERMANENCY DISPOSITION.**

(a) Except for an order terminating parental rights, an order permanently placing a child out of the home of the parent or guardian must include the following detailed findings:

(1) how the child's best interests are served by the order;

(2) the nature and extent of the responsible social services agency's reasonable efforts, or, in the case of an Indian child, active efforts to reunify the child with the parent or guardian where reasonable efforts are required;

(3) the parent's or parents' efforts and ability to use services to correct the conditions which led to the out-of-home placement; and

(4) that the conditions which led to the out-of-home placement have not been corrected so that the child can safely return home.

(b) The court shall issue an order required under section 260C.515 and this section within 15 days of the close of the proceedings. The court may extend issuing the order an additional 15 days when necessary in the interests of justice and the best interests of the child.

**Sec. 34. [260C.519] FURTHER COURT HEARINGS.**

Once a permanency disposition order has been made, further court hearings are necessary if:

(1) the child is ordered on a trial home visit or under the protective supervision of the responsible social services agency;

(2) the child continues in foster care;

(3) the court orders further hearings in a transfer of permanent legal and physical custody matter including if a party seeks to modify an order under section 260C.521, subdivision 2;

(4) an adoption has not yet been finalized; or

(5) the child returns to foster care after the court has entered an order for a permanency disposition under this section.

Sec. 35. **[260C.521] COURT REVIEWS AFTER PERMANENCY DISPOSITION ORDER.**

Subdivision 1. **Child in permanent custody of responsible social services agency.** (a) Court reviews of an order for permanent custody to the responsible social services agency for placement of the child in foster care must be conducted at least yearly at an in-court appearance hearing.

(b) The purpose of the review hearing is to ensure:

(1) the order for permanent custody to the responsible social services agency for placement of the child in foster care continues to be in the best interests of the child and that no other permanency disposition order is in the best interests of the child;

(2) that the agency is assisting the child to build connections to the child's family and community; and

(3) that the agency is appropriately planning with the child for development of independent living skills for the child, and as appropriate, for the orderly and successful transition to independent living that may occur if the child continues in foster care without another permanency disposition order.

(c) The court must review the child's out-of-home placement plan and the reasonable efforts of the agency to finalize an alternative permanent plan for the child including the agency's efforts to:

(1) ensure that permanent custody to the agency with placement of the child in foster care continues to be the most appropriate legal arrangement for meeting the child's need for permanency and stability or, if not, to identify and attempt to finalize another permanency disposition order under this chapter that would better serve the child's needs and best interests;

(2) identify a specific foster home for the child, if one has not already been identified;

(3) support continued placement of the child in the identified home, if one has been identified;

(4) ensure appropriate services are provided to address the physical health, mental health, and educational needs of the child during the period of foster care and also ensure appropriate services or assistance to maintain relationships with appropriate family members and the child's community; and

(5) plan for the child's independence upon the child's leaving foster care living as required under section 260C.212, subdivision 1.

(d) The court may find that the agency has made reasonable efforts to finalize the permanent plan for the child when:

(1) the agency has made reasonable efforts to identify a more legally permanent home for the child than is provided by an order for permanent custody to the agency for placement in foster care; and

(2) the agency's engagement of the child in planning for independent living is reasonable and appropriate.

Subd. 2. **Modifying an order for permanent legal and physical custody to a relative.** An order for a relative to have permanent legal and physical custody of a child may be modified using standards under sections 518.18 and 518.185. The social services agency is a party to the proceeding and must receive notice.

Subd. 3. **Modifying order for permanent custody to agency for placement in foster care.** (a) A parent may seek modification of an order for permanent custody of the child to the responsible social services agency for placement in foster care upon motion and a showing by the parent of a substantial change in the parent's circumstances such that the parent could provide appropriate care for the child and that removal of the child from the permanent custody of the agency and the return to the parent's care would be in the best interests of the child.

(b) The responsible social services agency may ask the court to vacate an order for permanent custody to the agency upon a petition and hearing pursuant to section 260C.163 establishing the basis for the court to order another permanency disposition under this chapter, including termination of parental rights based on abandonment if the parent has not visited the child, maintained contact with the child, or participated in planning for the child as required under section 260C.515, subdivision 5. The responsible social services agency must establish that the proposed permanency disposition order is in the child's best interests. Upon a hearing where the court determines the petition is proved, the court may vacate the order for permanent custody and enter a different order for a permanent disposition that is in the child's best interests. The court shall not require further reasonable efforts to reunify the child with the parent or guardian as a basis for vacating the order for permanent custody to the agency and ordering a different permanency disposition in the child's best interests. The county attorney must file the petition and give notice as required under the Minnesota Rules of Juvenile Protection Procedure in order to modify an order for permanent custody under this subdivision.

Sec. 36. **EFFECTIVE DATE.**

This article is effective August 1, 2012.

## ARTICLE 5 CHILD SUPPORT

Section 1. Minnesota Statutes 2011 Supplement, section 256.01, subdivision 14b, is amended to read:

Subd. 14b. **American Indian child welfare projects.** (a) The commissioner of human services may authorize projects to test tribal delivery of child welfare services to American Indian children and their parents and custodians living on the reservation. The commissioner has authority to solicit and determine which tribes may participate in a project. Grants may be issued to Minnesota Indian tribes to support the projects. The commissioner may waive existing state rules as needed to accomplish the projects. Notwithstanding section 626.556, the commissioner may authorize projects to use alternative methods of investigating and assessing reports of child maltreatment, provided that the projects comply with the provisions of section 626.556 dealing with the rights of individuals who are subjects of reports or investigations, including notice and appeal rights and data practices requirements. The commissioner may seek any federal approvals necessary to carry out the projects as well as seek and use any funds available to the commissioner, including use of federal funds, foundation funds, existing grant funds, and other funds. The commissioner is authorized to advance state funds as necessary to operate the projects. Federal reimbursement applicable to the projects is appropriated to the commissioner for the purposes of the projects. The projects must be required to address responsibility for safety, permanency, and well-being of children.

(b) For the purposes of this section, "American Indian child" means a person under ~~18 years of age~~ 21 years old and who is a tribal member or eligible for membership in one of the tribes chosen for a project under this subdivision and who is residing on the reservation of that tribe.

(c) In order to qualify for an American Indian child welfare project, a tribe must:

- (1) be one of the existing tribes with reservation land in Minnesota;
- (2) have a tribal court with jurisdiction over child custody proceedings;
- (3) have a substantial number of children for whom determinations of maltreatment have occurred;
- (4) have capacity to respond to reports of abuse and neglect under section 626.556;
- (5) provide a wide range of services to families in need of child welfare services; and
- (6) have a tribal-state title IV-E agreement in effect.

(d) Grants awarded under this section may be used for the nonfederal costs of providing child welfare services to American Indian children on the tribe's reservation, including costs associated with:

- (1) assessment and prevention of child abuse and neglect;
- (2) family preservation;
- (3) facilitative, supportive, and reunification services;
- (4) out-of-home placement for children removed from the home for child protective purposes; and
- (5) other activities and services approved by the commissioner that further the goals of providing safety, permanency, and well-being of American Indian children.

(e) When a tribe has initiated a project and has been approved by the commissioner to assume child welfare responsibilities for American Indian children of that tribe under this section, the affected county social service agency is relieved of responsibility for responding to reports of abuse and neglect under section 626.556 for those children during the time within which the tribal project is in effect and funded. The commissioner shall work with tribes and affected counties to develop procedures for data collection, evaluation, and clarification of ongoing role and financial responsibilities of the county and tribe for child welfare services prior to initiation of the project. Children who have not been identified by the tribe as participating in the project shall remain the responsibility of the county. Nothing in this section shall alter responsibilities of the county for law enforcement or court services.

(f) Participating tribes may conduct children's mental health screenings under section 245.4874, subdivision 1, paragraph (a), clause (14), for children who are eligible for the initiative and living on the reservation and who meet one of the following criteria:

- (1) the child must be receiving child protective services;
- (2) the child must be in foster care; or
- (3) the child's parents must have had parental rights suspended or terminated.

Tribes may access reimbursement from available state funds for conducting the screenings. Nothing in this section shall alter responsibilities of the county for providing services under section 245.487.

(g) Participating tribes may establish a local child mortality review panel. In establishing a local child mortality review panel, the tribe agrees to conduct local child mortality reviews for child deaths or near-fatalities occurring on the reservation under subdivision 12. Tribes with established child mortality review panels shall have access to nonpublic data and shall protect nonpublic data under subdivision 12, paragraphs (c) to (e). The tribe shall provide written notice to the commissioner and affected counties when a local child mortality review panel has been established and shall provide data upon request of the commissioner for purposes of sharing nonpublic data with members of the state child mortality review panel in connection to an individual case.

(h) The commissioner shall collect information on outcomes relating to child safety, permanency, and well-being of American Indian children who are served in the projects. Participating tribes must provide information to the state in a format and completeness deemed acceptable by the state to meet state and federal reporting requirements.

(i) In consultation with the White Earth Band, the commissioner shall develop and submit to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services a plan to transfer legal responsibility for providing child protective services to White Earth Band member children residing in Hennepin County to the White Earth Band. The plan shall include a financing proposal, definitions of key terms, statutory amendments required, and other provisions required to implement the plan. The commissioner shall submit the plan by January 15, 2012.

Sec. 2. Minnesota Statutes 2010, section 257.75, subdivision 7, is amended to read:

Subd. 7. **Hospital and Department of Health ~~distribution of educational materials; recognition form.~~** Hospitals that provide obstetric services and the state registrar of vital statistics shall distribute the educational materials and recognition of parentage forms prepared by the commissioner of human services to new parents; ~~and shall assist parents in understanding the recognition of parentage form, including following the provisions for notice under subdivision 5; shall aid new parents in properly completing the recognition of parentage form, including providing notary services; and shall timely file the completed recognition of parentage form with the Office of the State Registrar of Vital Statistics.~~ On and after January 1, 1994, hospitals may not distribute the declaration of parentage forms.

Sec. 3. Minnesota Statutes 2010, section 518A.40, subdivision 4, is amended to read:

Subd. 4. **Change in child care.** (a) When a court order provides for child care expenses, and child care support is not assigned under section 256.741, the public authority, if the public authority provides child support enforcement services, ~~must~~ may suspend collecting the amount allocated for child care expenses when:

(1) either party informs the public authority that no child care costs are being incurred; and;

(2) ~~(1)~~ (1) the public authority verifies the accuracy of the information with the obligee; ~~or~~

(2) the obligee fails to respond within 30 days of the date of a written request from the public authority for information regarding child care costs. A written or oral response from the obligee that child care costs are being incurred is sufficient for the public authority to continue collecting child care expenses.

The suspension is effective as of the first day of the month following the date that the public authority ~~received the verification~~ either verified the information with the obligee or the obligee failed to respond. The public authority will resume collecting child care expenses when either party provides information that child care costs ~~have resumed~~ are incurred, or when a child care support assignment takes effect under section 256.741, subdivision 4. The resumption is effective as of the first day of the month after the date that the public authority received the information.

(b) If the parties provide conflicting information to the public authority regarding whether child care expenses are being incurred, ~~or if the public authority is unable to verify with the obligee that no child care costs are being incurred,~~ the public authority will continue or resume collecting child care expenses. Either party, by motion to the court, may challenge the suspension, continuation, or resumption of the collection of child care expenses under this subdivision. If the public authority suspends collection activities for the amount allocated for child care expenses, all other provisions of the court order remain in effect.

(c) In cases where there is a substantial increase or decrease in child care expenses, the parties may modify the order under section 518A.39.

Sec. 4. Minnesota Statutes 2010, section 518C.205, is amended to read:

**518C.205 CONTINUING, EXCLUSIVE JURISDICTION.**

(a) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a child support order unless:

(1) ~~as long as~~ this state ~~remains~~ is no longer the residence of the obligor, the individual obligee, ~~or~~ and the child for whose benefit the support order is issued; or

(2) ~~until~~ all of the parties who are individuals have filed written consents with the tribunal of this state for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction.

(b) A tribunal of this state issuing a child support order consistent with the law of this state may not exercise its continuing jurisdiction to modify the order if the order has been modified by a tribunal of another state pursuant to this chapter or a law substantially similar to this chapter.

(c) If a child support order of this state is modified by a tribunal of another state pursuant to this chapter or a law substantially similar to this chapter, a tribunal of this state loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this state, and may only:

(1) enforce the order that was modified as to amounts accruing before the modification;

(2) enforce nonmodifiable aspects of that order; and

(3) provide other appropriate relief for violations of that order which occurred before the effective date of the modification.

(d) A tribunal of this state shall recognize the continuing, exclusive jurisdiction of a tribunal of another state which has issued a child support order pursuant to this chapter or a law substantially similar to this chapter.

(e) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

(f) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation. A tribunal of this state may not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state.

Sec. 5. **RECIPROCAL AGREEMENT; CHILD SUPPORT ENFORCEMENT.**

The commissioner of human services shall initiate procedures no later than October 1, 2012, to enter into a reciprocal agreement with Bermuda for the establishment and enforcement of child support obligations pursuant to United States Code, title 42, section 659a(d).

**EFFECTIVE DATE.** This section is effective upon Bermuda's written acceptance and agreement to enforce Minnesota child support orders. If Bermuda does not accept and declines to enforce Minnesota orders, this section expires October 1, 2013.

Sec. 6. **EFFECTIVE DATE.**

This article is effective August 1, 2012.

ARTICLE 6  
TECHNICAL AND CONFORMING AMENDMENTS

Section 1. Minnesota Statutes 2010, section 257.01, is amended to read:

**257.01 RECORDS REQUIRED.**

Each person or authorized child-placing agency permitted by law to receive children, secure homes for children, or care for children, shall keep a record containing the name, age, former residence, legal status, health records, sex, race, and accumulated length of time in foster care, if applicable, of each child received; the name, former residence, occupation, health history, and character, of each birth parent; the date of reception, placing out, and adoption of each child, and the name, race, occupation, and residence of the person with whom a child is placed; the date of the removal of any child to another home and the reason for removal; the date of termination of the guardianship; the history of each child until the child reaches the age of ~~18~~ 21 years, is legally adopted, or is discharged according to law; and further demographic and other information as is required by the commissioner of human services.

Sec. 2. Minnesota Statutes 2010, section 259.69, is amended to read:

**259.69 TRANSFER OF FUNDS.**

The commissioner of human services may transfer funds into the ~~subsidized~~ adoption assistance account when a deficit in the ~~subsidized~~ adoption assistance program occurs.

Sec. 3. Minnesota Statutes 2010, section 259.73, is amended to read:

**259.73 REIMBURSEMENT OF NONRECURRING ADOPTION EXPENSES.**

~~The commissioner of human services shall provide reimbursement of up to \$2,000 to the adoptive parent or parents for costs incurred in adopting a child with special needs. The commissioner shall determine the child's eligibility for adoption expense reimbursement under title IV E of the Social Security Act, United States Code, title 42, sections 670 to 676. To be reimbursed, costs must be reasonable, necessary, and directly related to the legal adoption of the child. An individual may apply for reimbursement for costs incurred in an adoption of a child with special needs under section 259A.70.~~

Sec. 4. Minnesota Statutes 2010, section 260C.301, subdivision 1, is amended to read:

Subdivision 1. **Voluntary and involuntary.** The juvenile court may upon petition, terminate all rights of a parent to a child:

- (a) with the written consent of a parent who for good cause desires to terminate parental rights; or
- (b) if it finds that one or more of the following conditions exist:
  - (1) that the parent has abandoned the child;

(2) that the parent has substantially, continuously, or repeatedly refused or neglected to comply with the duties imposed upon that parent by the parent and child relationship, including but not limited to providing the child with necessary food, clothing, shelter, education, and other care and control necessary for the child's physical, mental, or emotional health and development, if the parent is physically and financially able, and either reasonable efforts by the social services agency have failed to correct the conditions that formed the basis of the petition or reasonable efforts would be futile and therefore unreasonable;

(3) that a parent has been ordered to contribute to the support of the child or financially aid in the child's birth and has continuously failed to do so without good cause. This clause shall not be construed to state a grounds for termination of parental rights of a noncustodial parent if that parent has not been ordered to or cannot financially contribute to the support of the child or aid in the child's birth;

(4) that a parent is palpably unfit to be a party to the parent and child relationship because of a consistent pattern of specific conduct before the child or of specific conditions directly relating to the parent and child relationship either of which are determined by the court to be of a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental, or emotional needs of the child. It is presumed that a parent is palpably unfit to be a party to the parent and child relationship upon a showing that the parent's parental rights to one or more other children were involuntarily terminated or that the parent's custodial rights to another child have been involuntarily transferred to a relative under section 260C.201, subdivision 11, paragraph (e), clause (1), or a similar law of another jurisdiction;

(5) that following the child's placement out of the home, reasonable efforts, under the direction of the court, have failed to correct the conditions leading to the child's placement. It is presumed that reasonable efforts under this clause have failed upon a showing that:

(i) a child has resided out of the parental home under court order for a cumulative period of 12 months within the preceding 22 months. In the case of a child under age eight at the time the petition was filed alleging the child to be in need of protection or services, the presumption arises when the child has resided out of the parental home under court order for six months unless the parent has maintained regular contact with the child and the parent is complying with the out-of-home placement plan;

(ii) the court has approved the out-of-home placement plan required under section 260C.212 and filed with the court under section 260C.178;

(iii) conditions leading to the out-of-home placement have not been corrected. It is presumed that conditions leading to a child's out-of-home placement have not been corrected upon a showing that the parent or parents have not substantially complied with the court's orders and a reasonable case plan; and

(iv) reasonable efforts have been made by the social services agency to rehabilitate the parent and reunite the family.

This clause does not prohibit the termination of parental rights prior to one year, or in the case of a child under age eight, prior to six months after a child has been placed out of the home.

It is also presumed that reasonable efforts have failed under this clause upon a showing that:

(A) the parent has been diagnosed as chemically dependent by a professional certified to make the diagnosis;

(B) the parent has been required by a case plan to participate in a chemical dependency treatment program;

(C) the treatment programs offered to the parent were culturally, linguistically, and clinically appropriate;

(D) the parent has either failed two or more times to successfully complete a treatment program or has refused at two or more separate meetings with a caseworker to participate in a treatment program; and

(E) the parent continues to abuse chemicals.

(6) that a child has experienced egregious harm in the parent's care which is of a nature, duration, or chronicity that indicates a lack of regard for the child's well-being, such that a reasonable person would believe it contrary to the best interest of the child or of any child to be in the parent's care;

(7) that in the case of a child born to a mother who was not married to the child's father when the child was conceived nor when the child was born the person is not entitled to notice of an adoption hearing under section 259.49 and the person has not registered with the fathers' adoption registry under section 259.52;

(8) that the child is neglected and in foster care; or

(9) that the parent has been convicted of a crime listed in section 260.012, paragraph (g) , clauses (1) to ~~(3)~~ (5).

In an action involving an American Indian child, sections 260.751 to 260.835 and the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923, control to the extent that the provisions of this section are inconsistent with those laws.

Sec. 5. Minnesota Statutes 2010, section 260D.08, is amended to read:

**260D.08 ANNUAL REVIEW.**

(a) After the court conducts a permanency review hearing under section 260D.07, the matter must be returned to the court for further review of the responsible social services reasonable efforts to finalize the permanent plan for the child and the child's foster care placement at least every 12 months while the child is in foster care. The court shall give notice to the parent and child, age 12 or older, and the foster parents of the continued review requirements under this section at the permanency review hearing.

(b) Every 12 months, the court shall determine whether the agency made reasonable efforts to finalize the permanency plan for the child, which means the exercise of due diligence by the agency to:

(1) ensure that the agreement for voluntary foster care is the most appropriate legal arrangement to meet the child's safety, health, and best interests and to conduct a genuine examination of whether there is another permanency disposition order under chapter 260C, including returning the child home, that would better serve the child's need for a stable and permanent home;

(2) engage and support the parent in continued involvement in planning and decision making for the needs of the child;

(3) strengthen the child's ties to the parent, relatives, and community;

(4) implement the out-of-home placement plan required under section 260C.212, subdivision 1, and ensure that the plan requires the provision of appropriate services to address the physical health, mental health, and educational needs of the child; and

(5) ensure appropriate planning for the child's safe, permanent, and independent living arrangement after the child's 18th birthday.

Sec. 6. **[611.012] DISPOSITION OF CHILD OF PARENT ARRESTED.**

A peace officer who arrests a person accompanied by a child of the person may release the child to any person designated by the parent unless it is necessary to remove the child under section 260C.175 because the child is found in surroundings or conditions which endanger the child's health or welfare or which the peace officer reasonably believes will endanger the child's health or welfare. An officer releasing a child under this section to a person designated by the parent has no civil or criminal liability for the child's release.

Sec. 7. Minnesota Statutes 2010, section 626.556, subdivision 2, is amended to read:

Subd. 2. **Definitions.** As used in this section, the following terms have the meanings given them unless the specific content indicates otherwise:

(a) "Family assessment" means a comprehensive assessment of child safety, risk of subsequent child maltreatment, and family strengths and needs that is applied to a child maltreatment report that does not allege substantial child endangerment. Family assessment does not include a determination as to whether child maltreatment occurred but does determine the need for services to address the safety of family members and the risk of subsequent maltreatment.

(b) "Investigation" means fact gathering related to the current safety of a child and the risk of subsequent maltreatment that determines whether child maltreatment occurred and whether child protective services are needed. An investigation must be used when reports involve substantial child endangerment, and for reports of maltreatment in facilities required to be licensed under chapter 245A or 245B; under sections 144.50 to 144.58 and 241.021; in a school as defined in sections 120A.05, subdivisions 9, 11, and 13, and 124D.10; or in a nonlicensed personal care provider association as defined in sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

(c) "Substantial child endangerment" means a person responsible for a child's care, and in the case of sexual abuse includes a person who has a significant relationship to the child as defined in section 609.341, or a person in a position of authority as defined in section 609.341, who by act or omission commits or attempts to commit an act against a child under their care that constitutes any of the following:

(1) egregious harm as defined in section 260C.007, subdivision 14;

(2) sexual abuse as defined in paragraph (d);

(3) abandonment under section 260C.301, subdivision 2;

(4) neglect as defined in paragraph (f), clause (2), that substantially endangers the child's physical or mental health, including a growth delay, which may be referred to as failure to thrive, that has been diagnosed by a physician and is due to parental neglect;

(5) murder in the first, second, or third degree under section 609.185, 609.19, or 609.195;

(6) manslaughter in the first or second degree under section 609.20 or 609.205;

(7) assault in the first, second, or third degree under section 609.221, 609.222, or 609.223;

(8) solicitation, inducement, and promotion of prostitution under section 609.322;

(9) criminal sexual conduct under sections 609.342 to 609.3451;

(10) solicitation of children to engage in sexual conduct under section 609.352;

(11) malicious punishment or neglect or endangerment of a child under section 609.377 or 609.378;

(12) use of a minor in sexual performance under section 617.246; or

(13) parental behavior, status, or condition which mandates that the county attorney file a termination of parental rights petition under section 260C.301, subdivision 3, paragraph (a).

(d) "Sexual abuse" means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child, as defined in section 609.341, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of section 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual abuse also includes any act which involves a minor which constitutes a violation of prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes threatened sexual abuse which includes the status of a parent or household member who has committed a violation which requires registration as an offender under section 243.166, subdivision 1b, paragraph (a) or (b), or required registration under section 243.166, subdivision 1b, paragraph (a) or (b).

(e) "Person responsible for the child's care" means (1) an individual functioning within the family unit and having responsibilities for the care of the child such as a parent, guardian, or other person having similar care responsibilities, or (2) an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, other school employees or agents, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching, and coaching.

(f) "Neglect" means the commission or omission of any of the acts specified under clauses (1) to (9), other than by accidental means:

(1) failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter, health, medical, or other care required for the child's physical or mental health when reasonably able to do so;

(2) failure to protect a child from conditions or actions that seriously endanger the child's physical or mental health when reasonably able to do so, including a growth delay, which may be referred to as a failure to thrive, that has been diagnosed by a physician and is due to parental neglect;

(3) failure to provide for necessary supervision or child care arrangements appropriate for a child after considering factors as the child's age, mental ability, physical condition, length of absence, or environment, when the child is unable to care for the child's own basic needs or safety, or the basic needs or safety of another child in their care;

(4) failure to ensure that the child is educated as defined in sections 120A.22 and 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's child with sympathomimetic medications, consistent with section 125A.091, subdivision 5;

(5) nothing in this section shall be construed to mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care; except that a parent, guardian, or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report if a lack of medical care may cause serious danger to the child's health. This section does not impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care, a duty to provide that care;

(6) prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, ~~or~~ medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance, or the presence of a fetal alcohol spectrum disorder;

(7) "medical neglect" as defined in section 260C.007, subdivision 6, clause (5);

(8) chronic and severe use of alcohol or a controlled substance by a parent or person responsible for the care of the child that adversely affects the child's basic needs and safety; or

(9) emotional harm from a pattern of behavior which contributes to impaired emotional functioning of the child which may be demonstrated by a substantial and observable effect in the child's behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development, with due regard to the child's culture.

(g) "Physical abuse" means any physical injury, mental injury, or threatened injury, inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical or mental injury that cannot reasonably be explained by the child's history of injuries, or any aversive or deprivation procedures, or regulated interventions, that have not been authorized under section 121A.67 or 245.825.

Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian which does not result in an injury. Abuse does not include the use of reasonable force by a teacher, principal, or school employee as allowed by section 121A.582. Actions which are not reasonable and moderate include, but are not limited to, any of the following that are done in anger or without regard to the safety of the child:

(1) throwing, kicking, burning, biting, or cutting a child;

(2) striking a child with a closed fist;

(3) shaking a child under age three;

(4) striking or other actions which result in any nonaccidental injury to a child under 18 months of age;

(5) unreasonable interference with a child's breathing;

(6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;

(7) striking a child under age one on the face or head;

(8) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled substances which were not prescribed for the child by a practitioner, in order to control or punish the child; or other substances that substantially affect the child's behavior, motor coordination, or judgment or that results in sickness or internal injury, or subjects the child to medical procedures that would be unnecessary if the child were not exposed to the substances;

(9) unreasonable physical confinement or restraint not permitted under section 609.379, including but not limited to tying, caging, or chaining; or

(10) in a school facility or school zone, an act by a person responsible for the child's care that is a violation under section 121A.58.

(h) "Report" means any report received by the local welfare agency, police department, county sheriff, or agency responsible for assessing or investigating maltreatment pursuant to this section.

(i) "Facility" means:

(1) a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed under sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245B;

(2) a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10; or

(3) a nonlicensed personal care provider organization as defined in sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

(j) "Operator" means an operator or agency as defined in section 245A.02.

(k) "Commissioner" means the commissioner of human services.

(l) "Practice of social services," for the purposes of subdivision 3, includes but is not limited to employee assistance counseling and the provision of guardian ad litem and parenting time expeditor services.

(m) "Mental injury" means an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture.

(n) "Threatened injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury. Threatened injury includes, but is not limited to, exposing a child to a person responsible for the child's care, as defined in paragraph (e), clause (1), who has:

(1) subjected a child to, or failed to protect a child from, an overt act or condition that constitutes egregious harm, as defined in section 260C.007, subdivision 14, or a similar law of another jurisdiction;

(2) been found to be palpably unfit under section 260C.301, paragraph (b), clause (4), or a similar law of another jurisdiction;

(3) committed an act that has resulted in an involuntary termination of parental rights under section 260C.301, or a similar law of another jurisdiction; or

(4) committed an act that has resulted in the involuntary transfer of permanent legal and physical custody of a child to a relative under section 260C.201, subdivision 11, paragraph (d), clause (1), or a similar law of another jurisdiction.

(o) Persons who conduct assessments or investigations under this section shall take into account accepted child-rearing practices of the culture in which a child participates and accepted teacher discipline practices, which are not injurious to the child's health, welfare, and safety.

(p) "Accidental" means a sudden, not reasonably foreseeable, and unexpected occurrence or event which:

(1) is not likely to occur and could not have been prevented by exercise of due care; and

(2) if occurring while a child is receiving services from a facility, happens when the facility and the employee or person providing services in the facility are in compliance with the laws and rules relevant to the occurrence or event.

(q) "Nonmaltreatment mistake" means:

(1) at the time of the incident, the individual was performing duties identified in the center's child care program plan required under Minnesota Rules, part 9503.0045;

(2) the individual has not been determined responsible for a similar incident that resulted in a finding of maltreatment for at least seven years;

(3) the individual has not been determined to have committed a similar nonmaltreatment mistake under this paragraph for at least four years;

(4) any injury to a child resulting from the incident, if treated, is treated only with remedies that are available over the counter, whether ordered by a medical professional or not; and

(5) except for the period when the incident occurred, the facility and the individual providing services were both in compliance with all licensing requirements relevant to the incident.

This definition only applies to child care centers licensed under Minnesota Rules, chapter 9503. If clauses (1) to (5) apply, rather than making a determination of substantiated maltreatment by the individual, the commissioner of human services shall determine that a nonmaltreatment mistake was made by the individual.

Sec. 8. Minnesota Statutes 2010, section 626.556, subdivision 10, is amended to read:

Subd. 10. **Duties of local welfare agency and local law enforcement agency upon receipt of report.** (a) Upon receipt of a report, the local welfare agency shall determine whether to conduct a family assessment or an investigation as appropriate to prevent or provide a remedy for child maltreatment. The local welfare agency:

(1) shall conduct an investigation on reports involving substantial child endangerment;

(2) shall begin an immediate investigation if, at any time when it is using a family assessment response, it determines that there is reason to believe that substantial child endangerment or a serious threat to the child's safety exists;

(3) may conduct a family assessment for reports that do not allege substantial child endangerment. In determining that a family assessment is appropriate, the local welfare agency may consider issues of child safety, parental cooperation, and the need for an immediate response; and

(4) may conduct a family assessment on a report that was initially screened and assigned for an investigation. In determining that a complete investigation is not required, the local welfare agency must document the reason for terminating the investigation and notify the local law enforcement agency if the local law enforcement agency is conducting a joint investigation.

If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian, or individual functioning within the family unit as a person responsible for the child's care, or sexual abuse by a person with a significant relationship to the child when that person resides in the child's household or by a sibling, the local welfare agency shall immediately conduct a family assessment or investigation as identified in clauses (1) to (4). In conducting a family assessment or investigation, the local welfare agency shall gather information on the existence of substance abuse and domestic violence and offer services for purposes of preventing future child maltreatment, safeguarding and enhancing the welfare of the abused or neglected minor, and supporting and preserving family life whenever possible. If the report alleges a violation of a criminal statute involving sexual abuse, physical abuse, or neglect or endangerment, under section 609.378, the local law enforcement agency and local welfare agency shall coordinate the planning and execution of their respective investigation and assessment efforts to avoid a duplication of fact-finding efforts and multiple interviews. Each agency shall prepare a separate report of the results of its investigation. In cases of alleged child maltreatment resulting in death, the local agency may rely on the fact-finding efforts of a law enforcement investigation to make a determination of whether or not maltreatment occurred. When necessary the local welfare agency shall seek authority to remove the child from the custody of a parent, guardian, or adult with whom the child is living. In performing any of these duties, the local welfare agency shall maintain appropriate records.

If the family assessment or investigation indicates there is a potential for abuse of alcohol or other drugs by the parent, guardian, or person responsible for the child's care, the local welfare agency shall conduct a chemical use assessment pursuant to Minnesota Rules, part 9530.6615.

(b) When a local agency receives a report or otherwise has information indicating that a child who is a client, as defined in section 245.91, has been the subject of physical abuse, sexual abuse, or neglect at an agency, facility, or program as defined in section 245.91, it shall, in addition to its other duties under this section, immediately inform the ombudsman established under sections 245.91 to 245.97. The commissioner of education shall inform the ombudsman established under sections 245.91 to 245.97 of reports regarding a child defined as a client in section 245.91 that maltreatment occurred at a school as defined in sections 120A.05, subdivisions 9, 11, and 13, and 124D.10.

(c) Authority of the local welfare agency responsible for assessing or investigating the child abuse or neglect report, the agency responsible for assessing or investigating the report, and of the local law enforcement agency for investigating the alleged abuse or neglect includes, but is not limited to, authority to interview, without parental consent, the alleged victim and any other minors who currently reside with or who have resided with the alleged offender. The interview may take place at school or at any facility or other place where the alleged victim or other minors might be found or the child may be transported to, and the interview conducted at, a place appropriate for the interview of a child designated by the local welfare agency or law enforcement agency. The interview may take place outside the presence of the alleged offender or parent, legal custodian, guardian, or school official. For family assessments, it is the preferred practice to request a parent or guardian's permission to interview the child prior to conducting the child interview, unless doing so would compromise the safety assessment. Except as provided in this paragraph, the parent, legal custodian, or guardian shall be notified by the responsible local welfare or law enforcement agency no later than the conclusion of the investigation or assessment that this interview has occurred. Notwithstanding rule 32 of the Minnesota Rules of Procedure for Juvenile Courts, the juvenile court may, after hearing on an ex parte motion by the local welfare agency, order that, where reasonable cause exists, the agency withhold notification of this interview from the parent, legal custodian, or guardian. If the interview took place or is to take place on school property, the order shall specify that school officials may not disclose to the parent, legal custodian, or guardian the contents of the notification of intent to interview the child on school property, as provided under this paragraph, and any other related information regarding the interview that may be a part of the child's school record. A copy of the order shall be sent by the local welfare or law enforcement agency to the appropriate school official.

(d) When the local welfare, local law enforcement agency, or the agency responsible for assessing or investigating a report of maltreatment determines that an interview should take place on school property, written notification of intent to interview the child on school property must be received by school officials prior to the interview. The notification shall include the name of the child to be interviewed, the purpose of the interview, and a reference to the statutory authority to conduct an interview on school property. For interviews conducted by the local welfare agency, the notification shall be signed by the chair of the local social services agency or the chair's designee. The notification shall be private data on individuals subject to the provisions of this paragraph. School officials may not disclose to the parent, legal custodian, or guardian the contents of the notification or any other related information regarding the interview until notified in writing by the local welfare or law enforcement agency that the investigation or assessment has been concluded, unless a school employee or agent is alleged to have maltreated the child. Until that time, the local welfare or law enforcement agency or the agency responsible for assessing or investigating a report of maltreatment shall be solely responsible for any disclosures regarding the nature of the assessment or investigation.

Except where the alleged offender is believed to be a school official or employee, the time and place, and manner of the interview on school premises shall be within the discretion of school officials, but the local welfare or law enforcement agency shall have the exclusive authority to determine who may attend the interview. The conditions as to time, place, and manner of the interview set by the school officials shall be reasonable and the interview shall be conducted not more than 24 hours after the receipt of the notification unless another time is considered necessary by agreement between the school officials and the local welfare or law enforcement agency. Where the school fails to comply with the provisions of this paragraph, the juvenile court may order the school to comply. Every effort must be made to reduce the disruption of the educational program of the child, other students, or school staff when an interview is conducted on school premises.

(e) Where the alleged offender or a person responsible for the care of the alleged victim or other minor prevents access to the victim or other minor by the local welfare agency, the juvenile court may order the parents, legal custodian, or guardian to produce the alleged victim or other minor for questioning by the local welfare agency or the local law enforcement agency outside the presence of the alleged offender or any person responsible for the child's care at reasonable places and times as specified by court order.

(f) Before making an order under paragraph (e), the court shall issue an order to show cause, either upon its own motion or upon a verified petition, specifying the basis for the requested interviews and fixing the time and place of the hearing. The order to show cause shall be served personally and shall be heard in the same manner as provided in other cases in the juvenile court. The court shall consider the need for appointment of a guardian ad litem to protect the best interests of the child. If appointed, the guardian ad litem shall be present at the hearing on the order to show cause.

(g) The commissioner of human services, the ombudsman for mental health and developmental disabilities, the local welfare agencies responsible for investigating reports, the commissioner of education, and the local law enforcement agencies have the right to enter facilities as defined in subdivision 2 and to inspect and copy the facility's records, including medical records, as part of the investigation. Notwithstanding the provisions of chapter 13, they also have the right to inform the facility under investigation that they are conducting an investigation, to disclose to the facility the names of the individuals under investigation for abusing or neglecting a child, and to provide the facility with a copy of the report and the investigative findings.

(h) The local welfare agency responsible for conducting a family assessment or investigation shall collect available and relevant information to determine child safety, risk of subsequent child maltreatment, and family strengths and needs and share not public information with an Indian's tribal social services agency without violating any law of the state that may otherwise impose duties of confidentiality on the local welfare agency in order to implement the tribal state agreement. The local welfare agency or the agency responsible for investigating the report shall collect available and relevant information to ascertain whether maltreatment occurred and whether protective services are needed. Information collected includes, when relevant, information with regard to the person

reporting the alleged maltreatment, including the nature of the reporter's relationship to the child and to the alleged offender, and the basis of the reporter's knowledge for the report; the child allegedly being maltreated; the alleged offender; the child's caretaker; and other collateral sources having relevant information related to the alleged maltreatment. The local welfare agency or the agency responsible for ~~assessing or~~ investigating the report may make a determination of no maltreatment early in an ~~assessment~~ investigation, and close the case and retain immunity, if the collected information shows no basis for a full ~~assessment or~~ investigation.

Information relevant to the assessment or investigation must be asked for, and may include:

(1) the child's sex and age, prior reports of maltreatment, information relating to developmental functioning, credibility of the child's statement, and whether the information provided under this clause is consistent with other information collected during the course of the assessment or investigation;

(2) the alleged offender's age, a record check for prior reports of maltreatment, and criminal charges and convictions. The local welfare agency or the agency responsible for assessing or investigating the report must provide the alleged offender with an opportunity to make a statement. The alleged offender may submit supporting documentation relevant to the assessment or investigation;

(3) collateral source information regarding the alleged maltreatment and care of the child. Collateral information includes, when relevant: (i) a medical examination of the child; (ii) prior medical records relating to the alleged maltreatment or the care of the child maintained by any facility, clinic, or health care professional and an interview with the treating professionals; and (iii) interviews with the child's caretakers, including the child's parent, guardian, foster parent, child care provider, teachers, counselors, family members, relatives, and other persons who may have knowledge regarding the alleged maltreatment and the care of the child; and

(4) information on the existence of domestic abuse and violence in the home of the child, and substance abuse.

Nothing in this paragraph precludes the local welfare agency, the local law enforcement agency, or the agency responsible for assessing or investigating the report from collecting other relevant information necessary to conduct the assessment or investigation. Notwithstanding sections 13.384 or 144.291 to 144.298, the local welfare agency has access to medical data and records for purposes of clause (3). Notwithstanding the data's classification in the possession of any other agency, data acquired by the local welfare agency or the agency responsible for assessing or investigating the report during the course of the assessment or investigation are private data on individuals and must be maintained in accordance with subdivision 11. Data of the commissioner of education collected or maintained during and for the purpose of an investigation of alleged maltreatment in a school are governed by this section, notwithstanding the data's classification as educational, licensing, or personnel data under chapter 13.

In conducting an assessment or investigation involving a school facility as defined in subdivision 2, paragraph (i), the commissioner of education shall collect investigative reports and data that are relevant to a report of maltreatment and are from local law enforcement and the school facility.

(i) Upon receipt of a report, the local welfare agency shall conduct a face-to-face contact with the child reported to be maltreated and with the child's primary caregiver sufficient to complete a safety assessment and ensure the immediate safety of the child. The face-to-face contact with the child and primary caregiver shall occur immediately if substantial child endangerment is alleged and within five calendar days for all other reports. If the alleged offender was not already interviewed as the primary caregiver, the local welfare agency shall also conduct a face-to-face interview with the alleged offender in the early stages of the assessment or investigation. At the initial contact, the local child welfare agency or the agency responsible for assessing or investigating the report must inform the alleged offender of the complaints or allegations made against the individual in a manner consistent with laws protecting the rights of the person who made the report. The interview with the alleged offender may be postponed if it would jeopardize an active law enforcement investigation.

(j) When conducting an investigation, the local welfare agency shall use a question and answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. For investigations only, the following interviewing methods and procedures must be used whenever possible when collecting information:

(1) audio recordings of all interviews with witnesses and collateral sources; and

(2) in cases of alleged sexual abuse, audio-video recordings of each interview with the alleged victim and child witnesses.

(k) In conducting an assessment or investigation involving a school facility as defined in subdivision 2, paragraph (i), the commissioner of education shall collect available and relevant information and use the procedures in paragraphs (i), (k), and subdivision 3d, except that the requirement for face-to-face observation of the child and face-to-face interview of the alleged offender is to occur in the initial stages of the assessment or investigation provided that the commissioner may also base the assessment or investigation on investigative reports and data received from the school facility and local law enforcement, to the extent those investigations satisfy the requirements of paragraphs (i) and (k), and subdivision 3d.

Sec. 9. Minnesota Statutes 2010, section 626.556, subdivision 10e, is amended to read:

Subd. 10e. **Determinations.** (a) The local welfare agency shall conclude the family assessment or the investigation within 45 days of the receipt of a report. The conclusion of the assessment or investigation may be extended to permit the completion of a criminal investigation or the receipt of expert information requested within 45 days of the receipt of the report.

(b) After conducting a family assessment, the local welfare agency shall determine whether services are needed to address the safety of the child and other family members and the risk of subsequent maltreatment.

(c) After conducting an investigation, the local welfare agency shall make two determinations: first, whether maltreatment has occurred; and, second, whether child protective services are needed. No determination of maltreatment shall be made when the alleged perpetrator is a child under the age of ten.

(d) If the commissioner of education conducts an assessment or investigation, the commissioner shall determine whether maltreatment occurred and what corrective or protective action was taken by the school facility. If a determination is made that maltreatment has occurred, the commissioner shall report to the employer, the school board, and any appropriate licensing entity the determination that maltreatment occurred and what corrective or protective action was taken by the school facility. In all other cases, the commissioner shall inform the school board or employer that a report was received, the subject of the report, the date of the initial report, the category of maltreatment alleged as defined in paragraph (f), the fact that maltreatment was not determined, and a summary of the specific reasons for the determination.

(e) When maltreatment is determined in an investigation involving a facility, the investigating agency shall also determine whether the facility or individual was responsible, or whether both the facility and the individual were responsible for the maltreatment using the mitigating factors in paragraph (i). Determinations under this subdivision must be made based on a preponderance of the evidence and are private data on individuals or nonpublic data as maintained by the commissioner of education.

(f) For the purposes of this subdivision, "maltreatment" means any of the following acts or omissions:

(1) physical abuse as defined in subdivision 2, paragraph (g);

(2) neglect as defined in subdivision 2, paragraph (f);

- (3) sexual abuse as defined in subdivision 2, paragraph (d);
- (4) mental injury as defined in subdivision 2, paragraph (m); or
- (5) maltreatment of a child in a facility as defined in subdivision 2, paragraph (i).

(g) For the purposes of this subdivision, a determination that child protective services are needed means that the local welfare agency has documented conditions during the assessment or investigation sufficient to cause a child protection worker, as defined in section 626.559, subdivision 1, to conclude that a child is at significant risk of maltreatment if protective intervention is not provided and that the individuals responsible for the child's care have not taken or are not likely to take actions to protect the child from maltreatment or risk of maltreatment.

(h) This subdivision does not mean that maltreatment has occurred solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, in lieu of medical care. However, if lack of medical care may result in serious danger to the child's health, the local welfare agency may ensure that necessary medical services are provided to the child.

(i) When determining whether the facility or individual is the responsible party, or whether both the facility and the individual are responsible for determined maltreatment in a facility, the investigating agency shall consider at least the following mitigating factors:

(1) whether the actions of the facility or the individual caregivers were according to, and followed the terms of, an erroneous physician order, prescription, individual care plan, or directive; however, this is not a mitigating factor when the facility or caregiver was responsible for the issuance of the erroneous order, prescription, individual care plan, or directive or knew or should have known of the errors and took no reasonable measures to correct the defect before administering care;

(2) comparative responsibility between the facility, other caregivers, and requirements placed upon an employee, including the facility's compliance with related regulatory standards and the adequacy of facility policies and procedures, facility training, an individual's participation in the training, the caregiver's supervision, and facility staffing levels and the scope of the individual employee's authority and discretion; and

(3) whether the facility or individual followed professional standards in exercising professional judgment.

The evaluation of the facility's responsibility under clause (2) must not be based on the completeness of the risk assessment or risk reduction plan required under section 245A.66, but must be based on the facility's compliance with the regulatory standards for policies and procedures, training, and supervision as cited in Minnesota Statutes and Minnesota Rules.

(j) Notwithstanding paragraph (i), when maltreatment is determined to have been committed by an individual who is also the facility license holder, both the individual and the facility must be determined responsible for the maltreatment, and both the background study disqualification standards under section 245C.15, subdivision 4, and the licensing actions under sections 245A.06 or 245A.07 apply.

(k) Individual counties may implement more detailed definitions or criteria that indicate which allegations to investigate, as long as a county's policies are consistent with the definitions in the statutes and rules and are approved by the county board. Each local welfare agency shall periodically inform mandated reporters under subdivision 3 who work in the county of the definitions of maltreatment in the statutes and rules and any additional definitions or criteria that have been approved by the county board.

Sec. 10. Minnesota Statutes 2010, section 626.556, subdivision 10f, is amended to read:

Subd. 10f. **Notice of determinations.** Within ten working days of the conclusion of a family assessment, the local welfare agency shall notify the parent or guardian of the child of the need for services to address child safety concerns or significant risk of subsequent child maltreatment. The local welfare agency and the family may also jointly agree that family support and family preservation services are needed. Within ten working days of the conclusion of an investigation, the local welfare agency or agency responsible for ~~assessing or~~ investigating the report shall notify the parent or guardian of the child, the person determined to be maltreating the child, and if applicable, the director of the facility, of the determination and a summary of the specific reasons for the determination. When the investigation involves a child foster care setting that is monitored by a private licensing agency under section 245A.16, the local welfare agency responsible for ~~assessing or~~ investigating the report shall notify the private licensing agency of the determination and shall provide a summary of the specific reasons for the determination. The notice to the private licensing agency must include identifying private data, but not the identity of the reporter of maltreatment. The notice must also include a certification that the information collection procedures under subdivision 10, paragraphs (h), (i), and (j), were followed and a notice of the right of a data subject to obtain access to other private data on the subject collected, created, or maintained under this section. In addition, the notice shall include the length of time that the records will be kept under subdivision 11c. The investigating agency shall notify the parent or guardian of the child who is the subject of the report, and any person or facility determined to have maltreated a child, of their appeal or review rights under this section or section 256.022. The notice must also state that a finding of maltreatment may result in denial of a license application or background study disqualification under chapter 245C related to employment or services that are licensed by the Department of Human Services under chapter 245A, the Department of Health under chapter 144 or 144A, the Department of Corrections under section 241.021, and from providing services related to an unlicensed personal care provider organization under chapter 256B.

Sec. 11. Minnesota Statutes 2010, section 626.556, subdivision 10i, is amended to read:

Subd. 10i. **Administrative reconsideration; review panel.** (a) Administrative reconsideration is not applicable in family assessments since no determination concerning maltreatment is made. For investigations, except as provided under paragraph (e), an individual or facility that the commissioner of human services, a local social service agency, or the commissioner of education determines has maltreated a child, an interested person acting on behalf of the child, regardless of the determination, who contests the investigating agency's final determination regarding maltreatment, may request the investigating agency to reconsider its final determination regarding maltreatment. The request for reconsideration must be submitted in writing to the investigating agency within 15 calendar days after receipt of notice of the final determination regarding maltreatment or, if the request is made by an interested person who is not entitled to notice, within 15 days after receipt of the notice by the parent or guardian of the child. If mailed, the request for reconsideration must be postmarked and sent to the investigating agency within 15 calendar days of the individual's or facility's receipt of the final determination. If the request for reconsideration is made by personal service, it must be received by the investigating agency within 15 calendar days after the individual's or facility's receipt of the final determination. Effective January 1, 2002, an individual who was determined to have maltreated a child under this section and who was disqualified on the basis of serious or recurring maltreatment under sections 245C.14 and 245C.15, may request reconsideration of the maltreatment determination and the disqualification. The request for reconsideration of the maltreatment determination and the disqualification must be submitted within 30 calendar days of the individual's receipt of the notice of disqualification under sections 245C.16 and 245C.17. If mailed, the request for reconsideration of the maltreatment determination and the disqualification must be postmarked and sent to the investigating agency within 30 calendar days of the individual's receipt of the maltreatment determination and notice of disqualification. If the request for reconsideration is made by personal service, it must be received by the investigating agency within 30 calendar days after the individual's receipt of the notice of disqualification.

(b) Except as provided under paragraphs (e) and (f), if the investigating agency denies the request or fails to act upon the request within 15 working days after receiving the request for reconsideration, the person or facility entitled to a fair hearing under section 256.045 may submit to the commissioner of human services or the commissioner of education a written request for a hearing under that section. Section 256.045 also governs hearings requested to contest a final determination of the commissioner of education. ~~For reports involving maltreatment of a child in a facility, an interested person acting on behalf of the child may request a review by the Child Maltreatment Review Panel under section 256.022 if the investigating agency denies the request or fails to act upon the request or if the interested person contests a reconsidered determination.~~ The investigating agency shall notify persons who request reconsideration of their rights under this paragraph. ~~The request must be submitted in writing to the review panel and a copy sent to the investigating agency within 30 calendar days of receipt of notice of a denial of a request for reconsideration or of a reconsidered determination. The request must specifically identify the aspects of the agency determination with which the person is dissatisfied. The hearings specified under this section are the only administrative appeal of a decision issued under paragraph (a). Determinations under this section are not subject to accuracy and completeness challenges under section 13.04.~~

(c) If, as a result of a reconsideration or review, the investigating agency changes the final determination of maltreatment, that agency shall notify the parties specified in subdivisions 10b, 10d, and 10f.

(d) Except as provided under paragraph (f), if an individual or facility contests the investigating agency's final determination regarding maltreatment by requesting a fair hearing under section 256.045, the commissioner of human services shall assure that the hearing is conducted and a decision is reached within 90 days of receipt of the request for a hearing. The time for action on the decision may be extended for as many days as the hearing is postponed or the record is held open for the benefit of either party.

(e) If an individual was disqualified under sections 245C.14 and 245C.15, on the basis of a determination of maltreatment, which was serious or recurring, and the individual has requested reconsideration of the maltreatment determination under paragraph (a) and requested reconsideration of the disqualification under sections 245C.21 to 245C.27, reconsideration of the maltreatment determination and reconsideration of the disqualification shall be consolidated into a single reconsideration. If reconsideration of the maltreatment determination is denied and the individual remains disqualified following a reconsideration decision, the individual may request a fair hearing under section 256.045. If an individual requests a fair hearing on the maltreatment determination and the disqualification, the scope of the fair hearing shall include both the maltreatment determination and the disqualification.

(f) If a maltreatment determination or a disqualification based on serious or recurring maltreatment is the basis for a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, the license holder has the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. As provided for under section 245A.08, subdivision 2a, the scope of the contested case hearing shall include the maltreatment determination, disqualification, and licensing sanction or denial of a license. In such cases, a fair hearing regarding the maltreatment determination and disqualification shall not be conducted under section 256.045. Except for family child care and child foster care, reconsideration of a maltreatment determination as provided under this subdivision, and reconsideration of a disqualification as provided under section 245C.22, shall also not be conducted when:

(1) a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, is based on a determination that the license holder is responsible for maltreatment or the disqualification of a license holder based on serious or recurring maltreatment;

(2) the denial of a license or licensing sanction is issued at the same time as the maltreatment determination or disqualification; and

(3) the license holder appeals the maltreatment determination or disqualification, and denial of a license or licensing sanction.

Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment determination or disqualification, but does not appeal the denial of a license or a licensing sanction, reconsideration of the maltreatment determination shall be conducted under sections 626.556, subdivision 10i, and 626.557, subdivision 9d, and reconsideration of the disqualification shall be conducted under section 245C.22. In such cases, a fair hearing shall also be conducted as provided under sections 245C.27, 626.556, subdivision 10i, and 626.557, subdivision 9d.

If the disqualified subject is an individual other than the license holder and upon whom a background study must be conducted under chapter 245C, the hearings of all parties may be consolidated into a single contested case hearing upon consent of all parties and the administrative law judge.

(g) For purposes of this subdivision, "interested person acting on behalf of the child" means a parent or legal guardian; stepparent; grandparent; guardian ad litem; adult stepbrother, stepsister, or sibling; or adult aunt or uncle; unless the person has been determined to be the perpetrator of the maltreatment.

Sec. 12. Minnesota Statutes 2010, section 626.556, subdivision 10k, is amended to read:

Subd. 10k. **Release of certain assessment or investigative records to other counties.** Records maintained under subdivision 11c, paragraph (a), may be shared with another local welfare agency that requests the information because it is conducting an assessment or investigation under this section of the subject of the records.

Sec. 13. **REVISOR'S INSTRUCTION.**

(a) The revisor of statutes shall renumber each section of Minnesota Statutes listed in column A with the number listed in column B.

| <u>Column A</u>            | <u>Column B</u>          |
|----------------------------|--------------------------|
| <u>259.69</u>              | <u>259A.05, subd. 5</u>  |
| <u>260C.217</u>            | <u>260C.139</u>          |
| <u>260C.501</u>            | <u>260C.177</u>          |
| <u>260C.201, subd. 10</u>  | <u>260C.202</u>          |
| <u>260C.212, subd. 7</u>   | <u>260C.203</u>          |
| <u>260C.201, subd. 11a</u> | <u>260C.204</u>          |
| <u>260C.212, subd. 4</u>   | <u>260C.219</u>          |
| <u>260C.212, subd. 5</u>   | <u>260C.221</u>          |
| <u>260C.213</u>            | <u>260C.223</u>          |
| <u>260C.206</u>            | <u>260C.225</u>          |
| <u>260C.212, subd. 8</u>   | <u>260C.227</u>          |
| <u>260C.212, subd. 6</u>   | <u>260C.521, subd. 4</u> |
| <u>260C.205</u>            | <u>260D.11</u>           |

(b) The revisor of statutes shall make necessary cross-reference changes in Minnesota Statutes and Minnesota Rules consistent with the numbering in articles 1 and 2 and the renumbering in paragraph (a).

Sec. 14. **REPEALER.**

(a) Minnesota Statutes 2010, sections 256.022; 259.67; 259.71; 260C.201, subdivision 11; 260C.215, subdivision 2; and 260C.456, are repealed.

(b) Minnesota Rules, parts 9560.0071; 9560.0082; 9560.0083; 9560.0091; 9560.0093, subparts 1, 3, and 4; 9560.0101; and 9560.0102, are repealed.

Sec. 15. **EFFECTIVE DATE.**

This article is effective August 1, 2012.

ARTICLE 7  
CHILD CARE

Section 1. Minnesota Statutes 2010, 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~~ received by the county; the beginning date of employment, education, or training; the date the infant is born for applicants to the at-home infant care program; 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, or chapter 256J.

(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 DWP participants in employment and training services is effective the date of commencement of the services or the date of MFIP or 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.

(c) Notwithstanding paragraph (b), payment of child care assistance for participants eligible under section 119B.05 may only be made retroactive for a maximum of six months from the date of application for child care assistance.

Sec. 2. Minnesota Statutes 2010, section 119B.12, subdivision 1, is amended to read:

Subdivision 1. **Fee schedule.** All changes to parent fees must be implemented on the first Monday of the service period following the effective date of the change.

PARENT FEE SCHEDULE. The parent fee schedule is as follows, except as noted in subdivision 2:

| Income Range (as a percent of the state median income, except at the start of the first tier) | Co-payment (as a percentage of adjusted gross income) |
|---|---|
| 0 - 74.99% of federal poverty guidelines  | \$0/ <del>month</del> <u>biweekly</u>                 |
| 75.00 - 99.99% of federal poverty guidelines  | <del>\$5/month</del> <u>\$2/biweekly</u>              |
| 100.00% of federal poverty guidelines - 27.72%  | 2.61%   |
| 27.73 - 29.04%  | 2.61%   |
| 29.05 - 30.36%  | 2.61%   |
| 30.37 - 31.68%  | 2.61%   |
| 31.69 - 33.00%  | 2.91%   |
| 33.01 - 34.32%  | 2.91%   |
| 34.33 - 35.65%  | 2.91%   |
| 35.66 - 36.96%  | 2.91%   |

|                                  |            |
|----------------------------------|------------|
| 36.97 - 38.29%                   | 3.21%      |
| 38.30 - 39.61%                   | 3.21%      |
| 39.62 - 40.93%                   | 3.21%      |
| 40.94 - 42.25%                   | 3.84%      |
| 42.26 - 43.57%                   | 3.84%      |
| 43.58 - 44.89%                   | 4.46%      |
| 44.90 - 46.21%                   | 4.76%      |
| 46.22 - 47.53%                   | 5.05%      |
| 47.54 - 48.85%                   | 5.65%      |
| 48.86 - 50.17%                   | 5.95%      |
| 50.18 - 51.49%                   | 6.24%      |
| 51.50 - 52.81%                   | 6.84%      |
| 52.82 - 54.13%                   | 7.58%      |
| 54.14 - 55.45%                   | 8.33%      |
| 55.46 - 56.77%                   | 9.20%      |
| 56.78 - 58.09%                   | 10.07%     |
| 58.10 - 59.41%                   | 10.94%     |
| 59.42 - 60.73%                   | 11.55%     |
| 60.74 - 62.06%                   | 12.16%     |
| 62.07 - 63.38%                   | 12.77%     |
| 63.39 - 64.70%                   | 13.38%     |
| 64.71 - <del>66.99</del> 67.00 % | 14.00%     |
| <u>Greater than 67.00%</u>       | ineligible |

A family's ~~monthly~~ biweekly co-payment fee is the fixed percentage established for the income range multiplied by the highest possible income within that income range.

Sec. 3. Minnesota Statutes 2010, 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 state median income. Parent fees must begin at 75 percent of the poverty level. The minimum parent fees for families between 75 percent and 100 percent of poverty level must be ~~\$5 per month~~ \$2 per biweekly period. Parent fees must provide for graduated movement to full payment. Payment of part or all of a family's parent fee directly to the family's child care provider on behalf of the family by a source other than the family shall not affect the family's eligibility for child care assistance, and the amount paid shall be excluded from the family's income. Child care providers who accept third-party payments must maintain family specific documentation of payment source, amount, and time period covered by the payment.

Sec. 4. Minnesota Statutes 2010, section 119B.125, subdivision 1a, is amended to read:

Subd. 1a. **Background study required.** This subdivision only applies to legal, nonlicensed family child care providers. Prior to authorization, and as part of each reauthorization required in subdivision 1, the county shall perform a background study on every member of the provider's household who is age 13 and older. ~~The background study shall be conducted according to the procedures under subdivision 2.~~ The county shall also perform a background study on an individual who has reached age ten but is not yet age 13 and is living in the household where the nonlicensed child care will be provided when the county has reasonable cause as defined under section 245C.02, subdivision 15.

Sec. 5. Minnesota Statutes 2010, section 119B.125, subdivision 2, is amended to read:

Subd. 2. **Persons who cannot be authorized.** (a) ~~When any member of the legal, nonlicensed family child care provider's household meets any of the conditions under paragraphs (b) to (n), the provider must not be authorized as a legal nonlicensed family child care provider. To determine whether any of the listed conditions exist, the county must request information about the provider and other household members for whom a background study is required under subdivision 1a from the Bureau of Criminal Apprehension, the juvenile courts, and social service agencies. When one of the listed entities does not maintain information on a statewide basis, the county must contact the entity in the county where the provider resides and any other county in which the provider or any household member previously resided in the past year. For purposes of this subdivision, a finding that a delinquency petition is proven in juvenile court must be considered a conviction in state district court. The provider seeking authorization under this section shall collect the information required under section 245C.05, subdivision 1, and forward the information to the county agency. The background study must include a review of the information required under section 245C.08, subdivisions 2, 3, and 4, paragraph (b). A nonlicensed family child care provider is not authorized under this section if any household member who is the subject of a background study is determined to have a disqualifying characteristic under paragraphs (b) to (e) or under section 245C.14 or 245C.15. If a county has determined that a provider is able to be authorized in that county, and a family in another county later selects that provider, the provider is able to be authorized in the second county without undergoing a new background investigation unless one of the following conditions exists:~~

- (1) two years have passed since the first authorization;
- (2) another person age 13 or older has joined the provider's household since the last authorization;
- (3) a current household member has turned 13 since the last authorization; or
- (4) there is reason to believe that a household member has a factor that prevents authorization.

~~(b) The person has been convicted of one of the following offenses or has admitted to committing or a preponderance of the evidence indicates that the person has committed an act that meets the definition of one of the following offenses: sections 609.185 to 609.195, murder in the first, second, or third degree; 609.2661 to 609.2663, murder of an unborn child in the first, second, or third degree; 609.322, solicitation, inducement, promotion of prostitution, or receiving profit from prostitution; 609.342 to 609.345, criminal sexual conduct in the first, second, third, or fourth degree; 609.352, solicitation of children to engage in sexual conduct; 609.365, incest; 609.377, felony malicious punishment of a child; 617.246, use of minors in sexual performance; 617.247, possession of pictorial representation of a minor; 609.2242 to 609.2243, felony domestic assault; a felony offense of spousal abuse; a felony offense of child abuse or neglect; a felony offense of a crime against children; or an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes; or an offense in any other state or country where the elements are substantially similar to any of the offenses listed in this paragraph.~~

~~(c) Less than 15 years have passed since the discharge of the sentence imposed for the offense and the person has received a felony conviction for one of the following offenses, or the person has admitted to committing or a preponderance of the evidence indicates that the person has committed an act that meets the definition of a felony conviction for one of the following offenses: sections 609.20 to 609.205, manslaughter in the first or second degree; 609.21, criminal vehicular homicide; 609.215, aiding suicide or aiding attempted suicide; 609.221 to 609.2231, assault in the first, second, third, or fourth degree; 609.224, repeat offenses of fifth degree assault; 609.228, great bodily harm caused by distribution of drugs; 609.2325, criminal abuse of a vulnerable adult; 609.2335, financial exploitation of a vulnerable adult; 609.235, use of drugs to injure or facilitate a crime; 609.24, simple robbery; 617.241, repeat offenses of obscene materials and performances; 609.245, aggravated robbery; 609.25, kidnapping;~~

609.255, false imprisonment; 609.2664 to 609.2665, manslaughter of an unborn child in the first or second degree; 609.267 to 609.2672, assault of an unborn child in the first, second, or third degree; 609.268, injury or death of an unborn child in the commission of a crime; 609.27, coercion; 609.275, attempt to coerce; 609.324, subdivision 1, other prohibited acts, minor engaged in prostitution; 609.3451, repeat offenses of criminal sexual conduct in the fifth degree; 609.378, neglect or endangerment of a child; 609.52, theft; 609.521, possession of shoplifting gear; 609.561 to 609.563, arson in the first, second, or third degree; 609.582, burglary in the first, second, third, or fourth degree; 609.625, aggravated forgery; 609.63, forgery; 609.631, check forgery, offering a forged check; 609.635, obtaining signature by false pretenses; 609.66, dangerous weapon; 609.665, setting a spring gun; 609.67, unlawfully owning, possessing, or operating a machine gun; 609.687, adulteration; 609.71, riot; 609.713, terrorist threats; 609.749, stalking; 260C.301, termination of parental rights; 152.021 to 152.022 and 152.0262, controlled substance crime in the first or second degree; 152.023, subdivision 1, clause (3) or (4), or 152.023, subdivision 2, clause (4), controlled substance crime in third degree; 152.024, subdivision 1, clause (2), (3), or (4), controlled substance crime in fourth degree; 617.23, repeat offenses of indecent exposure; an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes; or an offense in any other state or country where the elements are substantially similar to any of the offenses listed in this paragraph.

(d) ~~Less than ten years have passed since the discharge of the sentence imposed for the offense and the person has received a gross misdemeanor conviction for one of the following offenses or the person has admitted to committing or a preponderance of the evidence indicates that the person has committed an act that meets the definition of a gross misdemeanor conviction for one of the following offenses: sections 609.224, fifth degree assault; 609.2242 to 609.2243, domestic assault; 518B.01, subdivision 14, violation of an order for protection; 609.3451, fifth degree criminal sexual conduct; 609.746, repeat offenses of interference with privacy; 617.23, repeat offenses of indecent exposure; 617.241, obscene materials and performances; 617.243, indecent literature, distribution; 617.293, disseminating or displaying harmful material to minors; 609.71, riot; 609.66, dangerous weapons; 609.749, stalking; 609.224, subdivision 2, paragraph (c), fifth degree assault against a vulnerable adult by a caregiver; 609.23, mistreatment of persons confined; 609.231, mistreatment of residents or patients; 609.2325, criminal abuse of a vulnerable adult; 609.2335, financial exploitation of a vulnerable adult; 609.233, criminal neglect of a vulnerable adult; 609.234, failure to report maltreatment of a vulnerable adult; 609.72, subdivision 3, disorderly conduct against a vulnerable adult; 609.265, abduction; 609.378, neglect or endangerment of a child; 609.377, malicious punishment of a child; 609.324, subdivision 1a, other prohibited acts, minor engaged in prostitution; 609.33, disorderly house; 609.52, theft; 609.582, burglary in the first, second, third, or fourth degree; 609.631, check forgery, offering a forged check; 609.275, attempt to coerce; an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes; or an offense in any other state or country where the elements are substantially similar to any of the offenses listed in this paragraph.~~

(e) ~~Less than seven years have passed since the discharge of the sentence imposed for the offense and the person has received a misdemeanor conviction for one of the following offenses or the person has admitted to committing or a preponderance of the evidence indicates that the person has committed an act that meets the definition of a misdemeanor conviction for one of the following offenses: sections 609.224, fifth degree assault; 609.2242, domestic assault; 518B.01, violation of an order for protection; 609.3232, violation of an order for protection; 609.746, interference with privacy; 609.79, obscene or harassing telephone calls; 609.795, letter, telegram, or package opening, harassment; 617.23, indecent exposure; 609.2672, assault of an unborn child, third degree; 617.293, dissemination and display of harmful materials to minors; 609.66, dangerous weapons; 609.665, spring guns; an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes; or an offense in any other state or country where the elements are substantially similar to any of the offenses listed in this paragraph.~~

(f) ~~The person has been identified by the child protection agency in the county where the provider resides or a county where the provider has resided or by the statewide child protection database as a person found by a preponderance of evidence under section 626.556 to be responsible for physical or sexual abuse of a child within the last seven years.~~

~~(g) The person has been identified by the adult protection agency in the county where the provider resides or a county where the provider has resided or by the statewide adult protection database as the person responsible for abuse or neglect of a vulnerable adult within the last seven years.~~

~~(h)~~ (b) The person has refused to give written consent for disclosure of criminal history records.

~~(i)~~ (c) The person has been denied a family child care license or has received a fine or a sanction as a licensed child care provider that has not been reversed on appeal.

~~(j)~~ (d) The person has a family child care licensing disqualification that has not been set aside.

~~(k)~~ (e) The person has admitted or a county has found that there is a preponderance of evidence that fraudulent information was given to the county for child care assistance application purposes or was used in submitting child care assistance bills for payment.

~~(l) The person has been convicted of the crime of theft by wrongfully obtaining public assistance or has been found guilty of wrongfully obtaining public 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.~~

~~(m) The person has a household member age 13 or older who has access to children during the hours that care is provided and who meets one of the conditions listed in paragraphs (b) to (l).~~

~~(n) The person has a household member ages ten to 12 who has access to children during the hours that care is provided; information or circumstances exist which provide the county with articulable suspicion that further pertinent information may exist showing the household member meets one of the conditions listed in paragraphs (b) to (l); and the household member actually meets one of the conditions listed in paragraphs (b) to (l).~~

Sec. 6. Minnesota Statutes 2010, section 119B.125, subdivision 6, is amended to read:

Subd. 6. **Record-keeping requirement.** All providers receiving child care assistance payments must keep daily attendance records for children receiving child care assistance and must make those records available immediately to the county upon request. The attendance records must be completed daily and include the date, the first and last name of each child in attendance, and the times when each child is dropped off and picked up. To the extent possible, the times that the child was dropped off to and picked up from the child care provider must be entered by the person dropping off or picking up the child. The daily attendance records must be retained for six years after the date of service. A county may deny authorization as a child care provider to any applicant or rescind authorization of any provider when the county knows or has reason to believe that the provider has not complied with the record-keeping requirement in this subdivision.

Sec. 7. Minnesota Statutes 2011 Supplement, section 119B.13, subdivision 1, is amended to read:

Subdivision 1. **Subsidy restrictions.** (a) Beginning October 31, 2011, the maximum rate paid for child care assistance in any county or multicounty region under the child care fund shall be the rate for like-care arrangements in the county effective July 1, 2006, decreased by 2.5 percent.

(b) ~~Every year~~ Biennially beginning in 2012, the commissioner shall survey rates charged by child care providers in Minnesota to determine the 75th percentile for like-care arrangements in counties. When the commissioner determines that, using the commissioner's established protocol, the number of providers responding to the survey is too small to determine the 75th percentile rate for like-care arrangements in a county or multicounty region, the commissioner may establish the 75th percentile maximum rate based on like-care arrangements in a county, region, or category that the commissioner deems to be similar.

(c) A rate which includes a special needs rate paid under subdivision 3 or under a school readiness service agreement paid under section 119B.231, may be in excess of the maximum rate allowed under this subdivision.

(d) 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 disability care. The maximum payment to a provider for one day of care must not exceed the daily rate. The maximum payment to a provider for one week of care must not exceed the weekly rate.

(e) Child care providers receiving reimbursement under this chapter must not be paid activity fees or an additional amount above the maximum rates for care provided during nonstandard hours for families receiving assistance.

(f) 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.

(g) All maximum provider rates changes shall be implemented on the Monday following the effective date of the maximum provider rate.

Sec. 8. Minnesota Statutes 2010, section 119B.13, subdivision 6, is amended to read:

Subd. 6. **Provider payments.** (a) The provider shall bill for services provided within ten days of the end of the service period. If bills are submitted within ten days of the end of the service period, payments under the child care fund shall be made within 30 days of receiving a bill from the provider. Counties or the state may establish policies that make payments on a more frequent basis.

(b) If a provider has received an authorization of care and been issued a billing form for an eligible family, the bill must be submitted within 60 days of the last date of service on the bill. A bill submitted more than 60 days after the last date of service must be paid if the county determines that the provider has shown good cause why the bill was not submitted within 60 days. Good cause must be defined in the county's child care fund plan under section 119B.08, subdivision 3, and the definition of good cause must include county error. Any bill submitted more than a year after the last date of service on the bill must not be paid.

(c) If a provider provided care for a time period without receiving an authorization of care and a billing form for an eligible family, payment of child care assistance may only be made retroactively for a maximum of six months from the date the provider is issued an authorization of care and billing form.

(d) A county may refuse to issue a child care authorization to a licensed or legal nonlicensed provider, revoke an existing child care authorization to a licensed or legal nonlicensed provider, stop payment issued to a licensed or legal nonlicensed provider, or ~~may~~ refuse to pay a bill submitted by a licensed or legal nonlicensed provider if:

(1) the provider admits to intentionally giving the county materially false information on the provider's billing forms; ~~or~~

(2) a county finds by a preponderance of the evidence that the provider intentionally gave the county materially false information on the provider's billing forms;

(3) the provider is in violation of licensing or child care assistance program rules and the provider has not corrected the violation;

(4) the provider submits false attendance reports or refuses to provide documentation of the child's attendance upon request; or

(5) the provider gives false child care price information.

(e) A county's payment policies must be included in the county's child care plan under section 119B.08, subdivision 3. If payments are made by the state, in addition to being in compliance with this subdivision, the payments must be made in compliance with section 16A.124.

Sec. 9. **CHILD CARE ASSISTANCE PROGRAM RULE CHANGE.**

The commissioner shall amend Minnesota Rules, part 3400.0035, subpart 2, to remove the requirement that applications must be submitted by mail or delivered to the agency within 15 calendar days after the date of signature. The commissioner shall comply with Minnesota Statutes, section 14.389, in adopting the amendment.

ARTICLE 8  
SIMPLIFICATION OF MFIP AND DWP

Section 1. Minnesota Statutes 2010, section 256J.08, subdivision 11, is amended to read:

Subd. 11. **Caregiver.** "Caregiver" means a minor child's ~~natural~~ birth or adoptive parent or parents and stepparent who live in the home with the minor child. For purposes of determining eligibility for this program, caregiver also means any of the following individuals, if adults, who live with and provide care and support to a minor child when the minor child's ~~natural~~ birth or adoptive parent or parents or stepparents do not reside in the same home: legal custodian or guardian, grandfather, grandmother, brother, sister, half brother, half sister, stepbrother, stepsister, uncle, aunt, first cousin or first cousin once removed, nephew, niece, person of preceding generation as denoted by prefixes of "great," "great-great," or "great-great-great," or a spouse of any person named in the above groups even after the marriage ends by death or divorce.

Sec. 2. Minnesota Statutes 2010, section 256J.24, subdivision 2, is amended to read:

Subd. 2. **Mandatory assistance unit composition.** Except for minor caregivers and their children who must be in a separate assistance unit from the other persons in the household, when the following individuals live together, they must be included in the assistance unit:

- (1) a minor child, including a pregnant minor;
- (2) the minor child's minor siblings, minor half siblings, and minor stepsiblings;
- (3) the minor child's ~~natural~~ birth parents, adoptive parents, and stepparents; and
- (4) the spouse of a pregnant woman.

A minor child must have a caregiver for the child to be included in the assistance unit.

Sec. 3. Minnesota Statutes 2010, section 256J.32, subdivision 6, is amended to read:

Subd. 6. **Recertification.** (a) The county agency shall recertify eligibility in an annual face-to-face interview with the participant and. The county agency may waive the face-to-face interview and conduct a phone interview for participants who qualify under paragraph (b). During the interview the county agency shall verify the following:

- (1) presence of the minor child in the home, if questionable;

(2) income, unless excluded, including self-employment expenses used as a deduction or deposits or withdrawals from business accounts;

(3) assets when the value is within \$200 of the asset limit;

(4) information to establish an exception under section 256J.24, subdivision 9, if questionable;

(5) inconsistent information, if related to eligibility; and

(6) whether a single caregiver household meets requirements in section 256J.575, subdivision 3.

(b) A participant who is employed any number of hours must be given the option of conducting a face-to-face or phone interview to recertify eligibility. The participant must be employed at the time the interview is scheduled. If the participant loses the participant's job between the time the interview is scheduled and when it is to be conducted, the phone interview may still be conducted.

**EFFECTIVE DATE.** This section is effective October 1, 2012.

Sec. 4. Minnesota Statutes 2010, section 256J.575, subdivision 1, is amended to read:

Subdivision 1. **Purpose.** ~~(a) The~~ Family stabilization services serve families who are not making significant progress within the regular employment and training services track of the Minnesota family investment program (MFIP) due to a variety of barriers to employment.

~~(b) The goal of the services is to stabilize and improve the lives of families at risk of long term welfare dependency or family instability due to employment barriers such as physical disability, mental disability, age, or providing care for a disabled household member. These services promote and support families to achieve the greatest possible degree of self sufficiency.~~

Sec. 5. Minnesota Statutes 2010, section 256J.575, subdivision 2, is amended to read:

Subd. 2. **Definitions.** The terms used in this section have the meanings given them in paragraphs (a) ~~to (d)~~ and (b) .

(a) ~~"Case manager" means the county designated staff person or employment services counselor.~~

~~(b) "Case management" "Family stabilization services" means the services programs, activities, and services provided by or through the county agency or through the employment services agency to participating families, including. Services include, but are not limited to, assessment as defined in section 256J.521, subdivision 1, information, referrals, and assistance in the preparation and implementation of a family stabilization plan under subdivision 5.~~

~~(c) (b) "Family stabilization plan" means a plan developed by a case manager and with the participant, which identifies the participant's most appropriate path to unsubsidized employment, family stability, and barrier reduction, taking into account the family's circumstances.~~

~~(d) "Family stabilization services" means programs, activities, and services in this section that provide participants and their family members with assistance regarding, but not limited to:~~

~~(1) obtaining and retaining unsubsidized employment;~~

~~(2) family stability;~~

~~(3) economic stability; and~~

~~(4) barrier reduction.~~

~~The goal of the services is to achieve the greatest degree of economic self sufficiency and family well being possible for the family under the circumstances.~~

Sec. 6. Minnesota Statutes 2010, section 256J.575, subdivision 5, is amended to read:

Subd. 5. ~~Case management; Family stabilization plans; coordinated services.~~ (a) The county agency or employment services provider shall provide ~~family stabilization services to families through a case management model. A case manager shall be assigned to each participating family within 30 days after the family is determined to be eligible for family stabilization services. The case manager, with the full involvement of the participant, shall recommend, and the county agency shall establish and modify as necessary, a family stabilization plan for each participating family. Once a participant has been determined eligible for family stabilization services, the county agency or employment services provider must attempt to meet with the participant to develop a plan within 30 days.~~

~~(b) If a participant is already assigned to a county case manager or a county-designated case manager in social services, disability services, or housing services that case manager already assigned may be the case manager for purposes of these services.~~

~~(b) The family stabilization plan must include:~~

~~(1) each participant's plan for long term self sufficiency, including an employment goal where applicable;~~

~~(2) an assessment of each participant's strengths and barriers, and any special circumstances of the participant's family that impact, or are likely to impact, the participant's progress towards the goals in the plan; and~~

~~(3) an identification of the services, supports, education, training, and accommodations needed to reduce or overcome any barriers to enable the family to achieve self sufficiency and to fulfill each caregiver's personal and family responsibilities.~~

~~(c) The case manager and the participant shall meet within 30 days of the family's referral to the case manager. The initial family stabilization plan must be completed within 30 days of the first meeting with the case manager. The case manager shall establish a schedule for periodic review of the family stabilization plan that includes personal contact with the participant at least once per month. In addition, the case manager shall review and, if necessary, modify the plan under the following circumstances:~~

~~(1) there is a lack of satisfactory progress in achieving the goals of the plan;~~

~~(2) the participant has lost unsubsidized or subsidized employment;~~

~~(3) a family member has failed or is unable to comply with a family stabilization plan requirement;~~

~~(4) services, supports, or other activities required by the plan are unavailable;~~

~~(5) changes to the plan are needed to promote the well being of the children; or~~

~~(6) the participant and case manager determine that the plan is no longer appropriate for any other reason. Participants determined eligible for family stabilization services must have access to employment and training services under sections 256J.515 to 256J.575, to the extent these services are available to other MFIP participants.~~

Sec. 7. Minnesota Statutes 2010, section 256J.575, subdivision 6, is amended to read:

Subd. 6. **Cooperation with services requirements.** ~~(a)~~ A participant who is eligible for family stabilization services ~~under this section shall comply with paragraphs (b) to (d).~~

~~(b) Participants shall engage in family stabilization plan services for the appropriate number of hours per week that the activities are scheduled and available, based on the needs of the participant and the participant's family, unless good cause exists for not doing so, as defined in section 256J.57, subdivision 1. The appropriate number of hours must be based on the participant's plan.~~

(c) The ~~case manager~~ county agency or employment services agency shall review the participant's progress toward the goals in the family stabilization plan every six months to determine whether conditions have changed, including whether revisions to the plan are needed.

~~(d) A participant's requirement to comply with any or all family stabilization plan requirements under this subdivision is excused when the case management services, training and educational services, or family support services identified in the participant's family stabilization plan are unavailable for reasons beyond the control of the participant, including when money appropriated is not sufficient to provide the services.~~

Sec. 8. Minnesota Statutes 2010, section 256J.575, subdivision 8, is amended to read:

Subd. 8. **Funding.** (a) The commissioner of human services shall treat MFIP expenditures made to or on behalf of any minor child under this section, who is part of a household that meets criteria in subdivision 3, as expenditures under a separately funded state program. These expenditures shall not count toward the state's maintenance of effort requirements under the federal TANF program.

(b) A family is no longer part of a separately funded program under this section if the caregiver no longer meets the criteria for family stabilization services in subdivision 3, ~~or if it is determined at recertification that a caregiver with a child under the age of six is working at least 87 hours per month in paid or unpaid employment, or a caregiver without a child under the age of six is working at least 130 hours per month in paid or unpaid employment, whichever occurs sooner.~~

Sec. 9. Minnesota Statutes 2010, section 256J.621, is amended to read:

#### **256J.621 WORK PARTICIPATION CASH BENEFITS.**

(a) Effective October 1, 2009, upon exiting the diversionary work program (DWP) or upon terminating the Minnesota family investment program with earnings, a participant who is employed may be eligible for work participation cash benefits of \$25 per month to assist in meeting the family's basic needs as the participant continues to move toward self-sufficiency.

(b) To be eligible for work participation cash benefits, the participant shall not receive MFIP or diversionary work program assistance during the month and the participant or participants must meet the following work requirements:

(1) if the participant is a single caregiver and has a child under six years of age, the participant must be employed at least 87 hours per month;

(2) if the participant is a single caregiver and does not have a child under six years of age, the participant must be employed at least 130 hours per month; or

(3) if the household is a two-parent family, at least one of the parents must be employed ~~an average of at least~~ 130 hours per month.

Whenever a participant exits the diversionary work program or is terminated from MFIP and meets the other criteria in this section, work participation cash benefits are available for up to 24 consecutive months.

(c) Expenditures on the program are maintenance of effort state funds under a separate state program for participants under paragraph (b), clauses (1) and (2). Expenditures for participants under paragraph (b), clause (3), are nonmaintenance of effort funds. Months in which a participant receives work participation cash benefits under this section do not count toward the participant's MFIP 60-month time limit.

Sec. 10. Minnesota Statutes 2010, section 256J.68, subdivision 7, is amended to read:

Subd. 7. **Exclusive procedure.** The procedure established by this section is exclusive of all other legal, equitable, and statutory remedies against the state, its political subdivisions, or employees of the state or its political subdivisions. The claimant shall not be entitled to seek damages from any state, county, tribal, or reservation insurance policy or self-insurance program. A provider who accepts or agrees to accept an injury protection program payment for services provided to an individual must not require any payment from the individual.

Sec. 11. Minnesota Statutes 2010, 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~~ in clauses (1) to (8), 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 or individuals that are not eligible for the diversionary work program include:

(1) child only cases;

(2) ~~a single-parent family unit~~ units that include a child under 12 months of age. A parent is eligible for this exception once in a parent's lifetime;

(3) family units with a minor parent without a high school diploma or its equivalent;

(4) family units with an 18- or 19-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;~~

~~(5)~~ (5) family units with a caregiver who received DWP benefits ~~in~~ within the 12 months prior to the month the family applied for DWP, except as provided in paragraph (c);

~~(7)~~ (6) family units with a caregiver who received MFIP within the 12 months prior to the month the family ~~unit~~ applied for DWP;

~~(8) a (7) family unit units~~ with a caregiver who received 60 or more months of TANF assistance; and

~~(9) (8) family units with~~ a caregiver who is disqualified from the work participation cash benefit program, DWP, or MFIP due to fraud; and.

~~(10) refugees and asylees as defined in Code of Federal Regulations, title 45, part 400, subpart d, section 400.43, who arrived in the United States in the 12 months prior to the date of application for family cash assistance.~~

(b) A two-parent family must participate in DWP unless both 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), (7), (8), (9), or (10).

(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."

Delete the title and insert:

"A bill for an act relating to human services; modifying provisions related to children and family services; providing for child safety and permanency reform including adoptions under guardianship of the commissioner; modifying statutory provisions related to child support; modifying child care provisions; modifying fees; modifying MFIP provisions; providing criminal penalties; making technical changes; amending Minnesota Statutes 2010, sections 13.46, subdivision 2; 13.461, subdivision 17; 13.465, by adding a subdivision; 119B.09, subdivision 7; 119B.12, subdivisions 1, 2; 119B.125, subdivisions 1a, 2, 6; 119B.13, subdivision 6; 145.902; 256.998, subdivisions 1, 5; 256J.08, subdivision 11; 256J.24, subdivisions 2, 5; 256J.32, subdivision 6; 256J.575, subdivisions 1, 2, 5, 6, 8; 256J.621; 256J.68, subdivision 7; 256J.95, subdivision 3; 257.01; 257.75, subdivision 7; 259.22, subdivision 2; 259.23, subdivision 1; 259.24, subdivisions 1, 3, 5, 6a, 7; 259.29, subdivision 2; 259.69; 259.73; 260.012; 260.771, subdivision 3; 260C.001; 260C.007, subdivision 4, by adding subdivisions; 260C.101, subdivision 2; 260C.150, subdivision 1; 260C.157, subdivision 1; 260C.163, subdivisions 1, 4; 260C.178, subdivisions 1, 7; 260C.193, subdivisions 3, 6; 260C.201, subdivisions 2, 10, 11a; 260C.212, subdivisions 1, 2, 5, 7; 260C.215, subdivisions 4, 6; 260C.217; 260C.301, subdivisions 1, 8; 260C.317, subdivisions 3, 4; 260C.325, subdivisions 1, 3, 4; 260C.328; 260C.451; 260D.08; 518A.40, subdivision 4; 518C.205; 541.04; 548.09, subdivision 1; 609.3785; 626.556, subdivisions 2, 10, 10e, 10f, 10i, 10k, 11; Minnesota Statutes 2011 Supplement, sections 119B.13, subdivision 1; 256.01, subdivision 14b; proposing coding for new law in Minnesota Statutes, chapters 260C; 611; proposing coding for new law as Minnesota Statutes, chapter 259A; repealing Minnesota Statutes 2010, sections 256.022; 259.67; 259.71; 260C.201, subdivision 11; 260C.215, subdivision 2; 260C.456; Minnesota Rules, parts 9560.0071; 9560.0082; 9560.0083; 9560.0091; 9560.0093, subparts 1, 3, 4; 9560.0101; 9560.0102."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Health and Human Services Finance.

The report was adopted.

Gottwalt from the Committee on Health and Human Services Reform to which was referred:

H. F. No. 2223, A bill for an act relating to health licensing; changing licensing provisions for alcohol and drug counselors and licensed counselors; providing penalties; setting licensing fees; amending Minnesota Statutes 2010, sections 148B.5301, subdivisions 1, 4, by adding a subdivision; 148B.54, subdivisions 2, 3; proposing coding for new law as Minnesota Statutes, chapter 148F; repealing Minnesota Statutes 2010, sections 148C.01, subdivisions 1,

1a, 2, 2a, 2b, 2c, 2d, 2e, 2f, 2g, 4, 4a, 5, 7, 9, 10, 11, 11a, 12, 12a, 13, 14, 15, 16, 17, 18; 148C.015; 148C.03, subdivisions 1, 4; 148C.0351, subdivisions 1, 3, 4; 148C.0355; 148C.04, subdivisions 1, 2, 3, 4, 5a, 6, 7; 148C.044; 148C.045; 148C.05, subdivisions 1, 1a, 5, 6; 148C.055; 148C.07; 148C.075; 148C.08; 148C.09, subdivisions 1, 1a, 2, 4; 148C.091; 148C.093; 148C.095; 148C.099; 148C.10, subdivisions 1, 2, 3; 148C.11; 148C.12, subdivisions 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15; Minnesota Rules, parts 4747.0010; 4747.0020; 4747.0030; 4747.0040; 4747.0050; 4747.0060; 4747.0070, subparts 1, 2, 3, 6; 4747.0200; 4747.0400, subpart 1; 4747.0700; 4747.0800; 4747.0900; 4747.1100, subparts 1, 2, 4, 5, 6, 7, 8, 9; 4747.1400; 4747.1500; 6310.3100, subpart 2; 6310.3600; 6310.3700, subpart 1.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1  
ALCOHOL AND DRUG COUNSELORS

Section 1. **[148F.001] SCOPE.**

This chapter applies to all applicants and licensees, all persons who use the title alcohol and drug counselor, and all persons in or out of this state who provide alcohol and drug counseling services to clients who reside in this state unless there are specific applicable exemptions provided by law.

Sec. 2. **[148F.010] DEFINITIONS.**

Subdivision 1. **Scope.** For purposes of this chapter, the terms in this section have the meanings given.

Subd. 2. **Abuse.** "Abuse" means a maladaptive pattern of substance use leading to clinically significant impairment or distress, as manifested by one or more of the following occurring at any time during the same 12-month period:

(1) recurrent substance use resulting in a failure to fulfill major role obligations at work, school, or home;

(2) recurrent substance use in situations in which it is physically hazardous;

(3) recurrent substance-related legal problems; and

(4) continued substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the substance.

Subd. 3. **Accredited school or educational program.** "Accredited school or educational program" means a school of alcohol and drug counseling, university, college, or other postsecondary education program that, at the time the student completes the program, is accredited by a regional accrediting association whose standards are substantially equivalent to those of the North Central Association of Colleges and Postsecondary Education Institutions or an accrediting association that evaluates schools of alcohol and drug counseling for inclusion of the education, practicum, and core function standards in this chapter.

Subd. 4. **Alcohol and drug counseling practicum.** "Alcohol and drug counseling practicum" means formal experience gained by a student and supervised by a person either licensed under this chapter or exempt under its provisions, as part of an accredited school or educational program of alcohol and drug counseling.

Subd. 5. **Alcohol and drug counselor.** "Alcohol and drug counselor" means a person who holds a valid license issued under this chapter to engage in the practice of alcohol and drug counseling.

Subd. 6. **Applicant.** "Applicant" means a person seeking a license or temporary permit under this chapter.

Subd. 7. **Board.** "Board" means the Board of Behavioral Health and Therapy established in section 148B.51.

Subd. 8. **Client.** "Client" means an individual who is the recipient of any of the alcohol and drug counseling services described in this section. Client also means "patient" as defined in section 144.291, subdivision 2, paragraph (g).

Subd. 9. **Competence.** "Competence" means the ability to provide services within the practice of alcohol and drug counseling as defined in subdivision 19, that:

(1) are rendered with reasonable skill and safety;

(2) meet minimum standards of acceptable and prevailing practice as described in section 148F.120; and

(3) take into account human diversity.

Subd. 10. **Core functions.** "Core functions" means the following services provided in alcohol and drug treatment:

(1) "screening" means the process by which a client is determined appropriate and eligible for admission to a particular program;

(2) "intake" means the administrative and initial assessment procedures for admission to a program;

(3) "orientation" means describing to the client the general nature and goals of the program; rules governing client conduct and infractions that can lead to disciplinary action or discharge from the program; in a nonresidential program, the hours during which services are available; treatment costs to be borne by the client, if any; and client's rights;

(4) "assessment" means those procedures by which a counselor identifies and evaluates an individual's strengths, weaknesses, problems, and needs to develop a treatment plan or make recommendations for level of care placement;

(5) "treatment planning" means the process by which the counselor and the client identify and rank problems needing resolution; establish agreed upon immediate and long-term goals; and decide on a treatment process and the sources to be utilized;

(6) "counseling" means the utilization of special skills to assist individuals, families, or groups in achieving objectives through exploration of a problem and its ramifications; examination of attitudes and feelings; consideration of alternative solutions; and decision making;

(7) "case management" means activities that bring services, agencies, resources, or people together within a planned framework of action toward the achievement of established goals;

(8) "crisis intervention" means those services which respond to an alcohol or other drug user's needs during acute emotional or physical distress;

(9) "client education" means the provision of information to clients who are receiving or seeking counseling concerning alcohol and other drug abuse and the available services and resources;

(10) "referral" means identifying the needs of the client which cannot be met by the counselor or agency and assisting the client to utilize the support systems and available community resources;

(11) "reports and record keeping" means charting the results of the assessment and treatment plan and writing reports, progress notes, discharge summaries, and other client-related data; and

(12) "consultation with other professionals regarding client treatment and services" means communicating with other professionals in regard to client treatment and services to assure comprehensive, quality care for the client.

Subd. 11. **Credential.** "Credential" means a license, permit, certification, registration, or other evidence of qualification or authorization to engage in the practice of an occupation in any state or jurisdiction.

Subd. 12. **Dependent on the provider.** "Dependent on the provider" means that the nature of a former client's emotional or cognitive condition and the nature of the services by the provider are such that the provider knows or should have known that the former client is unable to withhold consent to sexually exploitative behavior by the provider.

Subd. 13. **Familial.** "Familial" means of, involving, related to, or common to a family member as defined in subdivision 14.

Subd. 14. **Family member or member of the family.** "Family member" or "member of the family" means a spouse, parent, offspring, sibling, grandparent, grandchild, uncle, aunt, niece, or nephew, or an individual who serves in the role of one of the foregoing.

Subd. 15. **Group clients.** "Group clients" means two or more individuals who are each a corecipient of alcohol and drug counseling services. Group clients may include, but are not limited to, two or more family members, when each is the direct recipient of services, or each client receiving group counseling services.

Subd. 16. **Informed consent.** "Informed consent" means an agreement between a provider and a client that authorizes the provider to engage in a professional activity affecting the client. Informed consent requires:

(1) the provider to give the client sufficient information so the client is able to decide knowingly whether to agree to the proposed professional activity;

(2) the provider to discuss the information in language that the client can reasonably be expected to understand; and

(3) the client's consent to be given without undue influence by the provider.

Subd. 17. **Licensee.** "Licensee" means a person who holds a valid license under this chapter.

Subd. 18. **Practice of alcohol and drug counseling.** "Practice of alcohol and drug counseling" means the observation, description, evaluation, interpretation, and modification of human behavior by the application of core functions as it relates to the harmful or pathological use or abuse of alcohol or other drugs. The practice of alcohol and drug counseling includes, but is not limited to, the following activities, regardless of whether the counselor receives compensation for the activities:

(1) assisting clients who use alcohol or drugs, evaluating that use, and recognizing dependency if it exists;

(2) assisting clients with alcohol or other drug problems to gain insight and motivation aimed at resolving those problems;

(3) providing experienced professional guidance, assistance, and support for the client's efforts to develop and maintain a responsible functional lifestyle;

(4) recognizing problems outside the scope of the counselor's training, skill, or competence and referring the client to other appropriate professional services;

(5) diagnosing the level of alcohol or other drug use involvement to determine the level of care;

(6) individual planning to prevent a return to harmful alcohol or chemical use;

(7) alcohol and other drug abuse education for clients;

(8) consultation with other professionals;

(9) gaining diversity awareness through ongoing training and education; and

(10) providing the above services, as needed, to family members or others who are directly affected by someone using alcohol or other drugs.

Subd. 19. **Practice foundation.** "Practice foundation" means that an alcohol and drug counseling service or continuing education activity is based upon observations, methods, procedures, or theories that are generally accepted by the professional community in alcohol and drug counseling.

Subd. 20. **Private information.** "Private information" means any information, including, but not limited to, client records as defined in section 148F.150, test results, or test interpretations developed during a professional relationship between a provider and a client.

Subd. 21. **Provider.** "Provider" means a licensee, a temporary permit holder, or an applicant.

Subd. 22. **Public statement.** "Public statement" means any statement, communication, or representation, by a provider to the public regarding the provider or the provider's professional services or products. Public statements include, but are not limited to, advertising, representations in reports or letters, descriptions of credentials and qualifications, brochures and other descriptions of services, directory listings, personal resumes or curricula vitae, comments for use in the media, Web sites, grant and credentialing applications, or product endorsements.

Subd. 23. **Report.** "Report" means any written or oral professional communication, including a letter, regarding a client or subject that includes one or more of the following: historical data, behavioral observations, opinions, diagnostic or evaluative statements, or recommendations. The testimony of a provider as an expert or fact witness in a legal proceeding also constitutes a report. For purposes of this chapter, letters of recommendation for academic or career purposes are not considered reports.

Subd. 24. **Significant risks and benefits.** "Significant risks and benefits" means those risks and benefits that are known or reasonably foreseeable by the provider, including the possible range and likelihood of outcomes, and that are necessary for the client to know in order to decide whether to give consent to proposed services or to reasonable alternative services.

Subd. 25. **Student.** "Student" means an individual who is enrolled in a program in alcohol and drug counseling at an accredited educational institution, or who is taking an alcohol and drug counseling course or practicum for credit.

Subd. 26. **Supervisee.** "Supervisee" means an individual whose supervision is required to obtain credentialing by a licensure board or to comply with a board order.

Subd. 27. **Supervisor.** "Supervisor" means a licensed alcohol and drug counselor licensed under this chapter or other licensed professional practicing alcohol and drug counseling under section 148F.110, who meets the requirements of section 148F.040, subdivision 3, and who provides supervision to persons seeking licensure under section 148F.025, subdivision 3, paragraph (2), clause (ii).

Subd. 28. **Test.** "Test" means any instrument, device, survey, questionnaire, technique, scale, inventory, or other process which is designed or constructed for the purpose of measuring, evaluating, assessing, describing, or predicting personality, behavior, traits, cognitive functioning, aptitudes, attitudes, skills, values, interests, abilities, or other characteristics of individuals.

Subd. 29. **Unprofessional conduct.** "Unprofessional conduct" means any conduct violating sections 148F.001 to 148F.205, or any conduct that fails to conform to the minimum standards of acceptable and prevailing practice necessary for the protection of the public.

Subd. 30. **Variance.** "Variance" means board-authorized permission to comply with a law or rule in a manner other than that generally specified in the law or rule.

### Sec. 3. **[148F.015] DUTIES OF THE BOARD.**

The board shall:

(1) adopt and enforce rules for licensure and regulation of alcohol and drug counselors and temporary permit holders, including a standard disciplinary process and rules of professional conduct;

(2) issue licenses and temporary permits to qualified individuals under sections 148F.001 to 148F.205;

(3) carry out disciplinary actions against licensees and temporary permit holders;

(4) educate the public about the existence and content of the regulations for alcohol and drug counselor licensing to enable consumers to file complaints against licensees who may have violated the rules; and

(5) collect nonrefundable license fees for alcohol and drug counselors.

### Sec. 4. **[148F.020] DUTY TO MAINTAIN CURRENT INFORMATION.**

All individuals licensed as alcohol and drug counselors, all individuals with temporary permits, and all applicants for licensure must notify the board within 30 days of the occurrence of any of the following:

(1) a change of name, address, place of employment, and home or business telephone number; and

(2) a change in any other application information.

### Sec. 5. **[148F.025] REQUIREMENTS FOR LICENSURE.**

Subdivision 1. **Form; fee.** Individuals seeking licensure as a licensed alcohol and drug counselor shall fully complete and submit a notarized written application on forms provided by the board together with the appropriate fee in the amount set under section 148F.115. No portion of the fee is refundable.

**Subd. 2. Education requirements for licensure.** An applicant for licensure must submit evidence satisfactory to the board that the applicant has:

(1) received a bachelor's degree from an accredited school or educational program; and

(2) received 18 semester credits or 270 clock hours of academic course work and 880 clock hours of supervised alcohol and drug counseling practicum from an accredited school or education program. The course work and practicum do not have to be part of the bachelor's degree earned under clause (1). The academic course work must be in the following areas:

(i) an overview of the transdisciplinary foundations of alcohol and drug counseling, including theories of chemical dependency, the continuum of care, and the process of change;

(ii) pharmacology of substance abuse disorders and the dynamics of addiction, including medication-assisted therapy;

(iii) professional and ethical responsibilities;

(iv) multicultural aspects of chemical dependency;

(v) co-occurring disorders; and

(vi) the core functions defined in section 148F.010, subdivision 10.

**Subd. 3. Examination requirements for licensure.** (a) To be eligible for licensure, the applicant must:

(1) satisfactorily pass the International Certification and Reciprocity Consortium Alcohol and Other Drug Abuse Counselor (IC&RC AODA) written examination adopted June 2008, or other equivalent examination as determined by the board; or

(2) satisfactorily pass a written examination for licensure as an alcohol and drug counselor, as determined by the board, and one of the following:

(i) complete a written case presentation and pass an oral examination that demonstrates competence in the core functions as defined in section 148F.010, subdivision 10; or

(ii) complete 2,000 hours of postdegree supervised professional practice under section 148F.040.

**Subd. 4. Background investigation.** The applicant must sign a release authorizing the board to obtain information from the Bureau of Criminal Apprehension, the Department of Human Services, the Office of Health Facilities Complaints, and other agencies specified by the board. After the board has given written notice to an individual who is the subject of a background investigation, the agencies shall assist the board with the investigation by giving the board criminal conviction data, reports about substantiated maltreatment of minors and vulnerable adults, and other information. The board may contract with the commissioner of human services to obtain criminal history data from the Bureau of Criminal Apprehension. Information obtained under this subdivision is private data on individuals as defined in section 13.02, subdivision 12.

**Sec. 6. [148F.030] RECIPROCITY.**

(a) An individual who holds a current license or national certification as an alcohol and drug counselor from another jurisdiction must file with the board a completed application for licensure by reciprocity containing the information required in this section.

(b) The applicant must request the credentialing authority of the jurisdiction in which the credential is held to send directly to the board a statement that the credential is current and in good standing, the applicant's qualifications that entitled the applicant to the credential, and a copy of the jurisdiction's credentialing laws and rules that were in effect at the time the applicant obtained the credential.

(c) The board shall issue a license if the board finds that the requirements which the applicant met to obtain the credential from the other jurisdiction were substantially similar to the current requirements for licensure in this chapter and that the applicant is not otherwise disqualified under section 148F.090.

Sec. 7. **[148F.035] TEMPORARY PERMIT.**

(a) The board may issue a temporary permit to practice alcohol and drug counseling to an individual prior to being licensed under this chapter if the person:

(1) received an associate degree, or an equivalent number of credit hours, completed 880 clock hours of supervised alcohol and drug counseling practicum, and 18 semester credits or 270 clock hours of academic course work in alcohol and drug counseling from an accredited school or education program; and

(2) completed academic course work in the following areas:

(i) overview of the transdisciplinary foundations of alcohol and drug counseling, including theories of chemical dependency, the continuum of care, and the process of change;

(ii) pharmacology of substance abuse disorders and the dynamics of addiction, including medication-assisted therapy;

(iii) professional and ethical responsibilities;

(iv) multicultural aspects of chemical dependency;

(v) co-occurring disorders; and

(vi) core functions defined in section 148F.010, subdivision 10.

(b) An individual seeking a temporary permit shall fully complete and submit a notarized written application on forms provided by the board together with the nonrefundable temporary permit fee specified in section 148F.115, subdivision 3, clause (1).

(c) An individual practicing under this section:

(1) must be supervised by a licensed alcohol and drug counselor or other licensed professional practicing alcohol and drug counseling under section 148F.110, subdivision 1;

(2) is subject to all statutes and rules to the same extent as an individual who is licensed under this chapter, except the individual is not subject to the continuing education requirements of section 148F.075; and

(3) must use the title "Alcohol and Drug Counselor-Trainee" or the letters "ADC-T" in professional activities.

(d)(1) An individual practicing with a temporary permit must submit a renewal application annually on forms provided by the board with the renewal fee required in section 148F.115, subdivision 3.

(2) A temporary permit is automatically terminated if not renewed, upon a change in supervision, or upon the granting or denial by the board of the applicant's application for licensure as an alcohol and drug counselor.

(3) A temporary permit may be renewed no more than five times.

Sec. 8. **[148F.040] SUPERVISED POSTDEGREE PROFESSIONAL PRACTICE.**

Subdivision 1. **Supervision.** For the purposes of this section, "supervision" means documented interactive consultation, which, subject to the limitations of subdivision 4, paragraph (b), may be conducted in person, by telephone, or by audio or audiovisual electronic device by a supervisor with a supervisee. The supervision must be adequate to ensure the quality and competence of the activities supervised. Supervisory consultation must include discussions on the nature and content of the practice of the supervisee, including, but not limited to, a review of a representative sample of alcohol and drug counseling services in the supervisee's practice.

Subd. 2. **Postdegree professional practice.** "Postdegree professional practice" means paid or volunteer work experience and training following graduation from an accredited school or educational program that involves professional oversight by a supervisor approved by the board and that satisfies the supervision requirements in subdivision 4.

Subd. 3. **Supervisor requirements.** For the purposes of this section, a supervisor shall:

(1) be a licensed alcohol and drug counselor or other qualified professional as determined by the board;

(2) have three years of experience providing alcohol and drug counseling services; and

(3) have received a minimum of 12 hours of training in clinical and ethical supervision, which may include course work, continuing education courses, workshops, or a combination thereof.

Subd. 4. **Supervised practice requirements for licensure.** (a) The content of supervision must include:

(1) knowledge, skills, values, and ethics with specific application to the practice issues faced by the supervisee, including the core functions in section 148F.010, subdivision 10;

(2) the standards of practice and ethical conduct, with particular emphasis given to the counselor's role and appropriate responsibilities, professional boundaries, and power dynamics; and

(3) the supervisee's permissible scope of practice, as defined in section 148F.010, subdivision 18.

(b) The supervision must be obtained at the rate of one hour of supervision per 40 hours of professional practice, for a total of 50 hours of supervision. The supervision must be evenly distributed over the course of the supervised professional practice. At least 75 percent of the required supervision hours must be received in person. The remaining 25 percent of the required hours may be received by telephone or by audio or audiovisual electronic device. At least 50 percent of the required hours of supervision must be received on an individual basis. The remaining 50 percent may be received in a group setting.

(c) The supervision must be completed in no fewer than 12 consecutive months and no more than 36 consecutive months.

(d) The applicant shall include with an application for licensure a verification of completion of the 2,000 hours of supervised professional practice. Verification must be on a form specified by the board. The supervisor shall verify that the supervisee has completed the required hours of supervision according to this section. The supervised practice required under this section is unacceptable if the supervisor attests that the supervisee's performance, competence, or adherence to the standards of practice and ethical conduct has been unsatisfactory.

Sec. 9. **[148F.045] ALCOHOL AND DRUG COUNSELOR TECHNICIAN.**

An alcohol and drug counselor technician may perform the screening, intake, and orientation services described in section 148F.010, subdivision 10, clauses (1), (2), and (3), while under the direct supervision of a licensed alcohol and drug counselor.

Sec. 10. **[148F.050] LICENSE RENEWAL REQUIREMENTS.**

Subdivision 1. **Biennial renewal.** A license must be renewed every two years.

Subd. 2. **License renewal notice.** At least 60 calendar days before the renewal deadline date, the board shall mail a renewal notice to the licensee's last known address on file with the board. The notice must include instructions for accessing an online application for license renewal, the renewal deadline, and notice of fees required for renewal. The licensee's failure to receive notice does not relieve the licensee of the obligation to meet the renewal deadline and other requirements for license renewal.

Subd. 3. **Renewal requirements.** (a) To renew a license, a licensee must submit to the board:

(1) a completed, signed, and notarized application for license renewal;

(2) the renewal fee required under section 148F.115, subdivision 2; and

(3) evidence satisfactory to the board that the licensee has completed 40 clock hours of continuing education during the preceding two year renewal period that meet the requirements of section 148F.075.

(b) The application must be postmarked or received by the board by the end of the day on which the license expires or the following business day if the expiration date falls on a Saturday, Sunday, or holiday. An application which is not completed, signed, notarized, or which is not accompanied by the correct fee, is void and must be returned to the licensee.

Subd. 4. **Pending renewal.** If a licensee's application for license renewal is postmarked or received by the board by the end of the business day on the expiration date of the license, the licensee may continue to practice after the expiration date while the application for license renewal is pending with the board.

Subd. 5. **Late renewal fee.** If the application for license renewal is postmarked or received after the expiration date, the licensee shall pay a late fee as specified by section 148F.115, subdivision 5, clause (1), in addition to the renewal fee, before the application for license renewal will be considered by the board.

Sec. 11. **[148F.055] EXPIRED LICENSE.**

Subdivision 1. **Expiration of license.** A licensee who fails to submit an application for license renewal, or whose application for license renewal is not postmarked or received by the board as required, is not authorized to practice after the expiration date and is subject to disciplinary action by the board for any practice after the expiration date.

Subd. 2. **Termination for nonrenewal.** (a) Within 30 days after the renewal date, a licensee who has not renewed the license shall be notified by letter sent to the last known address of the licensee in the board's file that the renewal is overdue and that failure to pay the current fee and current late fee within 60 days after the renewal date will result in termination of the license.

(b) The board shall terminate the license of a licensee whose license renewal is at least 60 days overdue and to whom notification has been sent as provided in paragraph (a). Failure of a licensee to receive notification is not grounds for later challenge of the termination. The former licensee shall be notified of the termination by letter within seven days after the board action, in the same manner as provided in paragraph (a).

Sec. 12. **[148F.060] VOLUNTARY TERMINATION.**

A license may be voluntarily terminated by the licensee at any time upon written notification to the board, unless a complaint is pending against the licensee. The notification must be received by the board prior to termination of the license for failure to renew. A former licensee may be licensed again only after complying with the relicensure following termination requirements under section 148F.065. For purposes of this section, the board retains jurisdiction over any licensee whose license has been voluntarily terminated and against whom the board receives a complaint for conduct occurring during the period of licensure.

Sec. 13. **[148F.065] RELICENSURE FOLLOWING TERMINATION.**

Subdivision 1. **Relicensure.** For a period of two years, a former licensee whose license has been voluntarily terminated or terminated for nonrenewal as provided in section 148F.055, subdivision 2, may be relicensed by completing an application for relicensure, paying the applicable fee, and verifying that the former licensee has not engaged in the practice of alcohol and drug counseling in this state since the date of termination. The verification must be accompanied by a notarized affirmation that the statement is true and correct to the best knowledge and belief of the former licensee.

Subd. 2. **Continuing education for relicensure.** A former licensee seeking relicensure after license termination must provide evidence of having completed at least 20 hours of continuing education activities for each year, or portion thereof, that the former licensee did not hold a license.

Subd. 3. **Cancellation of license.** The board shall not renew, reissue, reinstate, or restore the license of a former licensee which was terminated for nonrenewal, or voluntarily terminated, and for which relicensure was not sought for more than two years from the date the license was terminated for nonrenewal, or voluntarily terminated. A former licensee seeking relicensure after this two-year period must obtain a new license by applying for licensure and fulfilling all requirements then in existence for an initial license to practice alcohol and drug counseling in Minnesota.

Sec. 14. **[148F.070] INACTIVE LICENSE STATUS.**

Subdivision 1. **Request for inactive status.** Unless a complaint is pending against the licensee, a licensee whose license is in good standing may request, in writing, that the license be placed on the inactive list. If a complaint is pending against a licensee, a license may not be placed on the inactive list until action relating to the complaint is concluded. The board must receive the request for inactive status before expiration of the license, or the person must pay the late fee. A licensee may renew a license that is inactive under this subdivision by meeting the renewal requirements of subdivision 2. A licensee must not practice alcohol and drug counseling while the license is inactive.

Subd. 2. **Renewal of inactive license.** A licensee whose license is inactive must renew the inactive status by the inactive status expiration date determined by the board, or the license will expire. An application for renewal of inactive status must include evidence satisfactory to the board that the licensee has completed 40 clock hours of continuing education required in section 148F.075. Late renewal of inactive status must be accompanied by a late fee as required in section 148F.115, subdivision 5, paragraph (2).

Sec. 15. **[148F.075] CONTINUING EDUCATION REQUIREMENTS.**

Subdivision 1. **Purpose.** (a) The purpose of mandatory continuing education is to promote the professional development of alcohol and drug counselors so that the services they provide promote the health and well-being of clients who receive services.

(b) Continued professional growth and maintaining competence in providing alcohol and drug counseling services are the ethical responsibilities of each licensee.

Subd. 2. **Requirement.** Every two years, all licensees must complete a minimum of 40 clock hours of continuing education activities that meet the requirements in this section. The 40 clock hours shall include a minimum of nine clock hours on diversity, and a minimum of three clock hours on professional ethics. Diversity training includes, but is not limited to, the topics listed in Minnesota Rules, part 4747.1100, subpart 2. A licensee may be given credit only for activities that directly relate to the practice of alcohol and drug counseling.

Subd. 3. **Standards for approval.** In order to obtain clock hour credit for a continuing education activity, the activity must:

(1) constitute an organized program of learning;

(2) reasonably be expected to advance the knowledge and skills of the alcohol and drug counselor;

(3) pertain to subjects that directly relate to the practice of alcohol and drug counseling;

(4) be conducted by individuals who have education, training, and experience and are knowledgeable about the subject matter; and

(5) be presented by a sponsor who has a system to verify participation and maintains attendance records for three years, unless the sponsor provides dated evidence to each participant with the number of clock hours awarded.

Subd. 4. **Qualifying activities.** Clock hours may be earned through the following:

(1) attendance at educational programs of annual conferences, lectures, panel discussions, workshops, in-service training, seminars, and symposia;

(2) successful completion of college or university courses offered by a regionally accredited school or education program, if not being taken in order to meet the educational requirements for licensure under this chapter. The licensee must obtain a grade of at least a "C" or its equivalent or a pass in a pass/fail course in order to receive the following continuing education credits:

(i) one semester credit equals 15 clock hours;

(ii) one trimester credit equals 12 clock hours;

(iii) one quarter credit equals 10 clock hours;

(3) successful completion of home study or online courses offered by an accredited school or education program and that require a licensee to demonstrate knowledge following completion of the course;

(4) teaching a course at a regionally accredited institution of higher education. To qualify for continuing education credit, the course must directly relate to the practice of alcohol and drug counseling, as determined by the board. Continuing education hours may be earned only for the first time the licensee teaches the course. Ten continuing education hours may be earned for each semester credit hour taught; or

(5) presentations at workshops, seminars, symposia, meetings of professional organizations, in-service trainings, or postgraduate institutes. The presentation must be related to alcohol and drug counseling. A presenter may claim one hour of continuing education for each hour of presentation time. A presenter may also receive continuing education hours for development time at the rate of three hours for each hour of presentation time. Continuing education hours may be earned only for the licensee's first presentation on the subject developed.

Subd. 5. **Activities not qualifying for continuing education clock hours.** Approval shall not be given for courses that do not meet the requirements of this section or are limited to the following:

(1) any subject contrary to the rules of professional conduct;

(2) supervision of personnel;

(3) entertainment or recreational activities;

(4) employment orientation sessions;

(5) policy meetings;

(6) marketing;

(7) business;

(8) first aid, CPR, and similar training classes; and

(9) training related to payment systems, including covered services, coding, and billing.

Subd. 6. **Documentation of reporting compliance.** (a) When the licensee applies for renewal of the license, the licensee must complete and submit an affidavit of continuing education compliance showing that the licensee has completed a minimum of 40 approved continuing education clock hours since the last renewal. Failure to submit the affidavit when required makes the licensee's renewal application incomplete and void.

(b) All licensees shall retain original documentation of completion of continuing education hours for a period of five years. For purposes of compliance with this section, a receipt for payment of the fee for the course is not sufficient evidence of completion of the required hours of continuing education. Information retained shall include:

(1) the continuing education activity title;

(2) a brief description of the continuing education activity;

(3) the sponsor, presenter, or author;

(4) the location and the dates attended;

(5) the number of clock hours; and

(6) the certificate of attendance, if applicable.

(c) Only continuing education obtained during the two-year reporting period may be considered at the time of reporting.

Subd. 7. **Continuing education audit.** (a) At the time of renewal, the board may randomly audit a percentage of its licensees for compliance with continuing education requirements.

(b) The board shall mail a notice to a licensee selected for an audit of continuing education hours. The notice must include the reporting periods selected for audit.

(c) Selected licensees shall submit copies of the original documentation of completed continuing education hours. Upon specific request, the licensee shall submit original documentation. Failure to submit required documentation shall result in the renewal application being considered incomplete and void and constitute grounds for nonrenewal of the license and disciplinary action.

Subd. 8. **Variance of continuing education requirements.** (a) If a licensee is unable to meet the continuing education requirements by the renewal date, the licensee may request a time-limited variance to fulfill the requirements after the renewal date. A licensee seeking a variance is considered to be renewing late and is subject to the late renewal fee, regardless of when the request is received or whether the variance is granted.

(b) The licensee shall submit the variance request on a form designated by the board, include the variance fee subject to section 14.056, subdivision 2, and the late fee for license renewal under section 148F.115. The variance request is subject to the criteria for rule variances in section 14.055, subdivision 4, and must include a written plan listing the activities offered to meet the requirement. Hours completed after the renewal date pursuant to the written plan count toward meeting only the requirements of the previous renewal period.

(c) A variance granted under this subdivision expires six months after the license renewal date. A licensee who is granted a variance but fails to complete the required continuing education within the six-month period may apply for a second variance according to this subdivision.

(d) If an initial variance request is denied, the license of the licensee shall not be renewed until the licensee completes the continuing education requirements. If an initial variance is granted, and the licensee fails to complete the required continuing education within the six-month period, the license shall be administratively suspended until the licensee completes the required continuing education, unless the licensee has obtained a second variance according to paragraph (c).

Sec. 16. **[148F.080] SPONSOR'S APPLICATION FOR APPROVAL.**

Subdivision 1. **Content.** Individuals, organizations, associations, corporations, educational institutions, or groups intending to offer continuing education activities for approval must submit to the board the sponsor application fee and a completed application for approval on a form provided by the board. The sponsor must comply with the following to receive and maintain approval:

(1) submit the application for approval at least 60 days before the activity is scheduled to begin; and

(2) include the following information in the application for approval to enable the board to determine whether the activity complies with section 148F.075:

(i) a statement of the objectives of the activity and the knowledge the participants will have gained upon completion of the activity;

(ii) a description of the content and methodology of the activity which will allow the participants to meet the objectives;

(iii) a description of the method the participants will use to evaluate the activity;

(iv) a list of the qualifications of each instructor or developer that shows the instructor's or developer's current knowledge and skill in the activity's subject;

(v) a description of the certificate or other form of verification of attendance distributed to each participant upon successful completion of the activity;

(vi) the sponsor's agreement to retain attendance lists for a period of five years from the date of the activity; and

(vii) a copy of any proposed advertisement or other promotional literature.

Subd. 2. **Approval expiration.** If the board approves an activity it shall assign the activity a number. The approval remains in effect for one year from the date of initial approval. Upon expiration, a sponsor must submit a new application for activity approval to the board as required by subdivision 1.

Subd. 3. **Statement of board approval.** Each sponsor of an approved activity shall include in any promotional literature a statement that "This activity has been approved by the Minnesota Board of Behavioral Health and Therapy for ... hours of credit."

Subd. 4. **Changes.** The activity sponsor must submit proposed changes in an approved activity to the board for its approval.

Subd. 5. **Denial of approval.** The board shall not approve an activity if it does not meet the continuing education requirements in section 148F.075. The board shall notify the sponsor in writing of its reasons for denial.

Subd. 6. **Revocation of approval.** The board shall revoke its approval of an activity if a sponsor falsifies information contained in its application for approval, or if a sponsor fails to notify the board of changes to an approved activity as required in subdivision 4.

Sec. 17. **[148F.085] NONTRANSFERABILITY OF LICENSES.**

An alcohol and drug counselor license is not transferable.

Sec. 18. **[148F.090] DENIAL, SUSPENSION, OR REVOCATION OF LICENSE.**

Subdivision 1. **Grounds.** The board may impose disciplinary action as described in subdivision 2 against an applicant or licensee whom the board, by a preponderance of the evidence, determines:

(1) has violated a statute, rule, or order that the board issued or is empowered to enforce;

(2) has engaged in fraudulent, deceptive, or dishonest conduct, whether or not the conduct relates to the practice of licensed alcohol and drug counseling that adversely affects the person's ability or fitness to practice alcohol and drug counseling;

(3) has engaged in unprofessional conduct or any other conduct which has the potential for causing harm to the public, including any departure from or failure to conform to the minimum standards of acceptable and prevailing practice without actual injury having to be established;

(4) has been convicted of or has pled guilty or nolo contendere to a felony or other crime, an element of which is dishonesty or fraud, or has been shown to have engaged in acts or practices tending to show that the applicant or licensee is incompetent or has engaged in conduct reflecting adversely on the applicant's or licensee's ability or fitness to engage in the practice of alcohol and drug counseling;

(5) has employed fraud or deception in obtaining or renewing a license, or in passing an examination;

(6) has had any license, certificate, registration, privilege to take an examination, or other similar authority denied, revoked, suspended, canceled, limited, or not renewed for cause in any jurisdiction or has surrendered or voluntarily terminated a license or certificate during a board investigation of a complaint, as part of a disciplinary order, or while under a disciplinary order;

(7) has failed to meet any requirement for the issuance or renewal of the person's license. The burden of proof is on the applicant or licensee to demonstrate the qualifications or satisfy the requirements for a license under this chapter;

(8) has failed to cooperate with an investigation by the board;

(9) has demonstrated an inability to practice alcohol and drug counseling with reasonable skill and safety as a result of illness, use of alcohol, drugs, chemicals, or any other materials, or as a result of any mental, physical, or psychological condition;

(10) has engaged in conduct with a client that is sexual or may reasonably be interpreted by the client as sexual, or in any verbal behavior that is seductive or sexually demeaning to a client;

(11) has been subject to a corrective action or similar, nondisciplinary action in another jurisdiction or by another regulatory authority;

(12) has been adjudicated as mentally incompetent, mentally ill, or developmentally disabled or as a chemically dependent person, a person dangerous to the public, a sexually dangerous person, or a person who has a sexual psychopathic personality by a court of competent jurisdiction within this state or an equivalent adjudication from another state. Adjudication automatically suspends a license for the duration thereof unless the board orders otherwise;

(13) fails to comply with a client's request for health records made under sections 144.291 to 144.298, or to furnish a client record or report required by law;

(14) has engaged in abusive or fraudulent billing practices, including violations of the federal Medicare and Medicaid laws or state medical assistance laws; or

(15) has engaged in fee splitting. This clause does not apply to the distribution of revenues from a partnership, group practice, nonprofit corporation, or professional corporation to its partners, shareholders, members, or employees if the revenues consist only of fees for services performed by the licensee or under a licensee's administrative authority. Fee splitting includes, but is not limited to:

(i) dividing fees with another person or a professional corporation, unless the division is in proportion to the services provided and the responsibility assumed by each professional;

(ii) referring a client to any health care provider as defined in sections 144.291 to 144.298 in which the referring licensee has a significant financial interest, unless the licensee has disclosed in advance to the client the licensee's own financial interest; or

(iii) paying, offering to pay, receiving, or agreeing to receive a commission, rebate, or remuneration, directly or indirectly, primarily for the referral of clients.

Subd. 2. **Forms of disciplinary action.** If grounds for disciplinary action exist under subdivision 1, the board may take one or more of the following actions;

(1) refuse to grant or renew a license;

(2) revoke a license;

(3) suspend a license;

(4) impose limitations or conditions on a licensee's practice of alcohol and drug counseling, including, but not limited to, limiting the scope of practice to designated competencies, imposing retraining or rehabilitation requirements, requiring the licensee to practice under supervision, or conditioning continued practice on the demonstration of knowledge or skill by appropriate examination or other review of skill and competence;

(5) censure or reprimand the licensee;

(6) impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the applicant or licensee of any economic advantage gained by reason of the violation charged, to discourage similar violations or to reimburse the board for the cost of the investigation and proceeding, including, but not limited to, fees paid for services provided by the Office of Administrative Hearings, legal and investigative services provided by the Office of the Attorney General, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and travel costs and expenses incurred by board staff and board members; or

(7) any other action justified by the case.

Subd. 3. **Evidence.** In disciplinary actions alleging violations of subdivision 1, clause (4), (12), or (14), a copy of the judgment or proceedings under the seal of the court administrator or of the administrative agency that entered the judgment or proceeding is admissible into evidence without further authentication and constitutes prima facie evidence of its contents.

Subd. 4. **Temporary suspension.** (a) In addition to any other remedy provided by law, the board may issue an order to temporarily suspend the credentials of a licensee after conducting a preliminary inquiry to determine if the board reasonably believes that the licensee has violated a statute or rule that the board is empowered to enforce and whether continued practice by the licensee would create an imminent risk of harm to others.

(b) The order may prohibit the licensee from engaging in the practice of alcohol and drug counseling in whole or in part and may condition the end of a suspension on the licensee's compliance with a statute, rule, or order that the board has issued or is empowered to enforce.

(c) The order shall give notice of the right to a hearing according to this subdivision and shall state the reasons for the entry of the order.

(d) Service of the order is effective when the order is served on the licensee personally or by certified mail, which is complete upon receipt, refusal, or return for nondelivery to the most recent address of the licensee provided to the board.

(e) At the time the board issues a temporary suspension order, the board shall schedule a hearing to be held before its own members. The hearing shall begin no later than 60 days after issuance of the temporary suspension order or within 15 working days of the date of the board's receipt of a request for hearing by a licensee, on the sole issue of whether there is a reasonable basis to continue, modify, or lift the temporary suspension. The hearing is not subject to chapter 14. Evidence presented by the board or the licensee shall be in affidavit form only. The licensee or counsel of record may appear for oral argument.

(f) Within five working days of the hearing, the board shall issue its order and, if the suspension is continued, schedule a contested case hearing within 30 days of the issuance of the order. Notwithstanding chapter 14, the administrative law judge shall issue a report within 30 days after closing the contested case hearing record. The board shall issue a final order within 30 days of receipt of the administrative law judge's report.

Subd. 5. **Automatic suspension.** (a) The right to practice is automatically suspended when:

(1) a guardian of an alcohol and drug counselor is appointed by order of a district court under sections 524.5-101 to 524.5-502; or

(2) the counselor is committed by order of a district court under chapter 253B.

(b) The right to practice remains suspended until the counselor is restored to capacity by a court and, upon petition by the counselor, the suspension is terminated by the board after a hearing or upon agreement between the board and the counselor.

Subd. 6. **Mental, physical, or chemical health evaluation.** (a) If the board has probable cause to believe that an applicant or licensee is unable to practice alcohol and drug counseling with reasonable skill and safety due to a mental or physical illness or condition, the board may direct the individual to submit to a mental, physical, or chemical dependency examination or evaluation.

(1) For the purposes of this section, every licensee and applicant is deemed to have consented to submit to a mental, physical, or chemical dependency examination or evaluation when directed in writing by the board and to have waived all objections to the admissibility of the examining professionals' testimony or examination reports on the grounds that the testimony or examination reports constitute a privileged communication.

(2) Failure of a licensee or applicant to submit to an examination when directed by the board constitutes an admission of the allegations against the person, unless the failure was due to circumstances beyond the person's control, in which case a default and final order may be entered without the taking of testimony or presentation of evidence.

(3) A licensee or applicant affected under this subdivision shall at reasonable intervals be given an opportunity to demonstrate that the licensee or applicant can resume the competent practice of licensed alcohol and drug counseling with reasonable skill and safety to the public.

(4) In any proceeding under this subdivision, neither the record of proceedings nor the orders entered by the board shall be used against the licensee or applicant in any other proceeding.

(b) In addition to ordering a physical or mental examination, the board may, notwithstanding section 13.384 or 144.291 to 144.298, or any other law limiting access to medical or other health data, obtain medical data and health records relating to a licensee or applicant without the licensee's or applicant's consent if the board has probable cause to believe that subdivision 1, clause (9), applies to the licensee or applicant. The medical data may be requested from:

(1) a provider, as defined in section 144.291, subdivision 2, paragraph (h);

(2) an insurance company; or

(3) a government agency, including the Department of Human Services.

(c) A provider, insurance company, or government agency must comply with any written request of the board under this subdivision and is not liable in any action for damages for releasing the data requested by the board if the data are released pursuant to a written request under this subdivision, unless the information is false and the provider giving the information knew, or had reason to believe, the information was false.

(d) Information obtained under this subdivision is private data on individuals as defined in section 13.02, subdivision 12.

Sec. 19. **[148F.095] ADDITIONAL REMEDIES.**

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

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

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

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

Subd. 2. **Injunctive relief.** In addition to any other remedy provided by law, including the issuance of a cease and desist order under subdivision 1, the board may in the board's own name bring an action in district court for injunctive relief to restrain an alcohol and drug counselor from a violation or threatened violation of any statute, rule, or order which the board has authority to administer, enforce, or issue.

Subd. 3. **Additional powers.** The issuance of a cease and desist order or injunctive relief granted under this section does not relieve a counselor from criminal prosecution by a competent authority or from disciplinary action by the board.

Sec. 20. **[148F.100] COOPERATION.**

An alcohol and drug counselor who is the subject of an investigation, or who is questioned in connection with an investigation, by or on behalf of the board, shall cooperate fully with the investigation. Cooperation includes responding fully to any question raised by or on behalf of the board relating to the subject of the investigation, whether tape recorded or not. Challenges to requests of the board may be brought before the appropriate agency or court.

Sec. 21. **[148F.105] PROHIBITED PRACTICE OR USE OF TITLES; PENALTY.**

Subdivision 1. **Practice.** No person shall engage in alcohol and drug counseling without first being licensed under this chapter as an alcohol and drug counselor. For purposes of this chapter, an individual engages in the practice of alcohol and drug counseling if the individual performs or offers to perform alcohol and drug counseling services as defined in section 148F.010, subdivision 19, or if the individual is held out as able to perform those services.

Subd. 2. **Use of titles.** (a) No individual shall present themselves or any other individual to the public by any title incorporating the words "licensed alcohol and drug counselor," "alcohol and drug counselor," or otherwise hold themselves out to the public by any title or description stating or implying that they are licensed or otherwise qualified to practice alcohol and drug counseling, unless that individual holds a valid license.

(b) An individual issued a temporary permit must use titles consistent with section 148F.035, subdivisions 1 and 2, paragraph (c), clause (3).

(c) An individual who is participating in an alcohol and drug counseling practicum for purposes of licensure by the board may be designated an "alcohol and drug counselor intern."

(d) Individuals who are trained in alcohol and drug counseling and employed by an educational institution recognized by a regional accrediting organization, by a federal, state, county, or local government institution, by agencies, or research facilities, may represent themselves by the titles designated by that organization provided the title does not indicate the individual is licensed by the board.

Subd. 3. **Penalty.** A person who violates sections 148F.001 to 148F.205 is guilty of a misdemeanor.

Sec. 22. **[148F.110] EXCEPTIONS TO LICENSE REQUIREMENT.**

Subdivision 1. **Other professionals.** (a) Nothing in this chapter prevents members of other professions or occupations from performing functions for which they are qualified or licensed. This exception includes, but is not limited to: licensed physicians; registered nurses; licensed practical nurses; licensed psychologists and licensed psychological practitioners; members of the clergy provided such services are provided within the scope of regular ministries; American Indian medicine men and women; licensed attorneys; probation officers; licensed marriage and family therapists; licensed social workers; social workers employed by city, county, or state agencies; licensed professional counselors; licensed professional clinical counselors; licensed school counselors; registered occupational therapists or occupational therapy assistants; Upper Midwest Indian Council on Addictive Disorders (UMICAD) certified counselors when providing services to Native American people; city, county, or state employees when providing assessments or case management under Minnesota Rules, chapter 9530; and individuals defined in section 256B.0623, subdivision 5, clauses (1) and (2), providing integrated dual-diagnosis treatment in adult mental health rehabilitative programs certified by the Department of Human Services under section 256B.0622 or 256B.0623.

(b) Nothing in this chapter prohibits technicians and resident managers in programs licensed by the Department of Human Services from discharging their duties as provided in Minnesota Rules, chapter 9530.

(c) Any person who is exempt from licensure under this section must not use a title incorporating the words "alcohol and drug counselor" or "licensed alcohol and drug counselor" or otherwise hold themselves out to the public by any title or description stating or implying that they are engaged in the practice of alcohol and drug counseling, or that they are licensed to engage in the practice of alcohol and drug counseling, unless that person is also licensed as an alcohol and drug counselor. Persons engaged in the practice of alcohol and drug counseling are not exempt from the board's jurisdiction solely by the use of one of the titles in paragraph (a).

Subd. 2. **Students.** Nothing in sections 148F.001 to 148F.110 shall prevent students enrolled in an accredited school of alcohol and drug counseling from engaging in the practice of alcohol and drug counseling while under qualified supervision in an accredited school of alcohol and drug counseling.

Subd. 3. **Federally recognized tribes.** Alcohol and drug counselors practicing alcohol and drug counseling according to standards established by federally recognized tribes, while practicing under tribal jurisdiction, are exempt from the requirements of this chapter. In practicing alcohol and drug counseling under tribal jurisdiction, individuals practicing under that authority shall be afforded the same rights, responsibilities, and recognition as persons licensed under this chapter.

Sec. 23. **[148F.115] FEES.**

Subdivision 1. **Application fee.** The application fee is \$295.

Subd. 2. **Biennial renewal fee.** The license renewal fee is \$295. If the board establishes a renewal schedule, and the scheduled renewal date is less than two years, the fee may be prorated.

Subd. 3. **Temporary permit fee.** Temporary permit fees are as follows:

(1) initial application fee is \$100; and

(2) annual renewal fee is \$150. If the initial term is less or more than one year, the fee may be prorated.

Subd. 4. **Inactive license renewal fee.** The inactive license renewal fee is \$150.

Subd. 5. **Late fees.** Late fees are as follows:

(1) biennial renewal late fee is \$74;

(2) inactive license renewal late fee is \$37; and

(3) annual temporary permit late fee is \$37.

Subd. 6. **Fee to renew after expiration of license.** The fee for renewal of a license that has been expired for less than two years is the total of the biennial renewal fee in effect at the time of late renewal and the late fee.

Subd. 7. **Fee for license verification.** The fee for license verification is \$25.

Subd. 8. **Surcharge fee.** Notwithstanding section 16A.1285, subdivision 2, a surcharge of \$99 shall be paid at the time of initial application for or renewal of an alcohol and drug counselor license until June 30, 2013.

Subd. 9. **Sponsor application fee.** The fee for a sponsor application for approval of a continuing education course is \$60.

Subd. 10. **Order or stipulation fee.** The fee for a copy of a board order or stipulation is \$10.

Subd. 11. **Duplicate certificate fee.** The fee for a duplicate certificate is \$25.

Subd. 12. **Supervisor application processing fee.** The fee for licensure supervisor application processing is \$30.

Subd. 13. **Nonrefundable fees.** All fees in this section are nonrefundable.

Sec. 24. **[148F.120] CONDUCT.**

Subdivision 1. **Scope.** Sections 148F.120 to 148F.205 apply to the conduct of all alcohol and drug counselors, licensees, and applicants, including conduct during the period of education, training, and employment that is required for licensure.

Subd. 2. **Purpose.** Sections 148F.120 to 148F.205 constitute the standards by which the professional conduct of alcohol and drug counselors is measured.

Subd. 3. **Violations.** A violation of sections 148F.120 to 148F.205 is unprofessional conduct and constitutes grounds for disciplinary action, corrective action, or denial of licensure.

Subd. 4. **Conflict with organizational demands.** If the organizational policies at the provider's work setting conflict with any provision in sections 148F.120 to 148F.205, the provider shall discuss the nature of the conflict with the employer, make known the requirement to comply with these sections of law, and attempt to resolve the conflict in a manner that does not violate the law.

Sec. 25. **[148F.125] COMPETENT PROVISION OF SERVICES.**

Subdivision 1. **Limits on practice.** Alcohol and drug counselors shall limit their practice to the client populations and services for which they have competence or for which they are developing competence.

Subd. 2. **Developing competence.** When an alcohol and drug counselor is developing competence in a service, method, procedure, or to treat a specific client population, the alcohol and drug counselor shall obtain professional education, training, continuing education, consultation, supervision, or experience, or a combination thereof, necessary to demonstrate competence.

Subd. 3. **Experimental, emerging, or innovative services.** Alcohol and drug counselors may offer experimental services, methods, or procedures competently and in a manner that protects clients from harm. However, when doing so, they have a heightened responsibility to understand and communicate the potential risks to clients, to use reasonable skill and safety, and to undertake appropriate preparation as required in subdivision 2.

Subd. 4. **Limitations.** Alcohol and drug counselors shall recognize the limitations to the scope of practice of alcohol and drug counseling. When the needs of clients appear to be outside their scope of practice, providers shall inform the clients that there may be other professional, technical, community, and administrative resources available to them. Providers shall assist with identifying resources when it is in the best interests of clients to be provided with alternative or complementary services.

Subd. 5. **Burden of proof.** Whenever a complaint is submitted to the board involving a violation of this section, the burden of proof is on the provider to demonstrate that the elements of competence have reasonably been met.

Sec. 26. **[148F.130] PROTECTING CLIENT PRIVACY.**

Subdivision 1. **Protecting private information.** The provider shall safeguard private information obtained in the course of the practice of alcohol and drug counseling. Private information may be disclosed to others only according to section 148F.135, or with certain exceptions as specified in subdivisions 2 to 13.

Subd. 2. **Duty to warn; limitation on liability.** Private information may be disclosed without the consent of the client when a duty to warn arises, or as otherwise provided by law or court order. The duty to warn of, or take reasonable precautions to provide protection from, violent behavior arises only when a client or other person has communicated to the provider a specific, serious threat of physical violence to self or a specific, clearly identified or identifiable potential victim. If a duty to warn arises, the duty is discharged by the provider if reasonable efforts are made to communicate the threat to law enforcement agencies, the potential victim, the family of the client, or appropriate third parties who are in a position to prevent or avert the harm. No monetary liability and no cause of action or disciplinary action by the board may arise against a provider for disclosure of confidences to third parties, for failure to disclose confidences to third parties, or for erroneous disclosure of confidences to third parties in a good faith effort to warn against or take precautions against a client's violent behavior or threat of suicide.

Subd. 3. **Services to group clients.** Whenever alcohol and drug counseling services are provided to group clients, the provider shall initially inform each client of the provider's responsibility and each client's individual responsibility to treat any information gained in the course of rendering the services as private information, including any limitations to each client's right to privacy.

Subd. 4. **Obtaining collateral information.** Prior to obtaining collateral information about a client from other individuals, the provider shall obtain consent from the client unless the consent is not required by law or court order, and shall inform the other individuals that the information obtained may become part of the client's records and may therefore be accessed or released by the client, unless prohibited by law. For purposes of this subdivision, "other individual" means any individual, except for credentialed health care providers acting in their professional capacities, who participates adjunctively in the provision of services to a client. Examples of other individuals include, but are not limited to, family members, friends, coworkers, day care workers, guardians ad litem, foster parents, or school personnel.

Subd. 5. **Minor clients.** At the beginning of a professional relationship, the provider shall inform a minor client that the law imposes limitations on the right of privacy of the minor with respect to the minor's communications with the provider. This requirement is waived when the minor cannot reasonably be expected to understand the privacy statement.

Subd. 6. **Limited access to client records.** The provider shall limit access to client records. The provider shall make reasonable efforts to inform individuals associated with the provider's agency or facility, such as staff members, students, volunteers, or community aides, that access to client records, regardless of their format, is limited only to the provider with whom the client has a professional relationship, an individual associated with the agency or facility whose duties require access, or individuals authorized to have access by the written informed consent of the client.

Subd. 7. **Billing statements for services.** The provider shall comply with the privacy wishes of clients regarding to whom and where statements for services are to be sent.

Subd. 8. **Case reports.** The identification of the client shall be reasonably disguised in case reports or other clinical materials used in teaching, presentations, professional meetings, or publications.

Subd. 9. **Observation and recording.** Diagnostic interviews or therapeutic sessions with a client may be observed or electronically recorded only with the client's written informed consent.

Subd. 10. **Continued protection of client information.** The provider shall maintain the privacy of client data indefinitely after the professional relationship has ended.

Subd. 11. **Court-ordered or other mandated disclosures.** The proper disclosure of private client data upon a court order or to conform with state or federal law shall not be considered a violation of sections 148F.120 to 148F.205.

Subd. 12. **Abuse or neglect of minor or vulnerable adults.** An applicant or licensee must comply with the reporting of maltreatment of minors established in section 626.556 and the reporting of maltreatment of vulnerable adults established in section 626.557.

Subd. 13. **Initial contacts.** When an individual initially contacts a provider regarding alcohol and drug counseling services, the provider or another individual designated by the provider may, with oral consent from the potential client, contact third parties to determine payment or benefits information, arrange for precertification of services when required by the individual's health plan, or acknowledge a referral from another health care professional.

Sec. 27. **[148F.135] PRIVATE INFORMATION; ACCESS AND RELEASE.**

Subdivision 1. **Client right to access and release private information.** A client has the right to access and release private information maintained by the provider, including client records as provided in sections 144.291 to 144.298, relating to the provider's counseling services to that client, except as otherwise provided by law or court order.

Subd. 2. **Release of private information.** (a) When a client makes a request for the provider to release the client's private information, the request must be in writing and signed by the client. Informed consent is not required. When the request involves client records, all pertinent information shall be released in compliance with sections 144.291 to 144.298.

(b) If the provider initiates the request to release the client's private information, written authorization for the release of information must be obtained from the client and must include, at a minimum:

(1) the name of the client;

(2) the name of the individual or entity providing the information;

(3) the name of the individual or entity to which the release is made;

(4) the types of information to be released, such as progress notes, diagnoses, assessment data, or other specific information;

(5) the purpose of the release, such as whether the release is to coordinate professional care with another provider, to obtain insurance payment for services, or for other specified purposes;

(6) the time period covered by the consent;

(7) a statement that the consent is valid for one year, except as otherwise allowed by statute, or for a lesser period that is specified in the consent;

(8) a declaration that the individual signing the statement has been told of and understands the nature and purpose of the authorized release;

(9) a statement that the consent may be rescinded, except to the extent that the consent has already been acted upon or that the right to rescind consent has been waived separately in writing;

(10) the signature of the client or the client's legally authorized representative, whose relationship to the client must be stated; and

(11) the date on which the consent is signed.

Subd. 3. **Group client records.** Whenever counseling services are provided to group clients, each client has the right to access or release only that information in the records that the client has provided directly or has authorized other sources to provide, unless otherwise directed by law or court order. Upon a request by one client to access or release group client records, that information in the records that has not been provided directly or by authorization of the requesting client must be redacted unless written authorization to disclose this information has been obtained from the other clients.

Subd. 4. **Board investigation.** The board shall be allowed access to any records of a client provided services by an applicant or licensee who is under investigation. If the client has not signed a consent permitting access to the client's records, the applicant or licensee must delete any data that identifies the client before providing them to the board. The board shall maintain any records as investigative data pursuant to chapter 13.

Sec. 28. **[148F.140] INFORMED CONSENT.**

Subdivision 1. **Obtaining informed consent for services.** The provider shall obtain informed consent from the client before initiating services. The informed consent must be in writing, signed by the client, and include the following, at a minimum:

(1) authorization for the provider to engage in an activity which directly affects the client;

(2) the goals, purposes, and procedures of the proposed services;

(3) the factors that may impact the duration of the service;

(4) the applicable fee schedule;

(5) the limits to the client's privacy, including but not limited to the provider's duty to warn pursuant to section 148F.130, subdivision 2;

(6) the provider's responsibilities if the client terminates the service;

(7) the significant risks and benefits of the service, including whether the service may affect the client's legal or other interests;

(8) the provider's responsibilities under section 148F.125, subdivision 3, if the proposed service, method, or procedure is of an experimental, emerging, or innovative nature; and

(9) if applicable, information that the provider is developing competence in the proposed service, method, or procedure, and alternatives to the proposed service, if any.

Subd. 2. **Updating informed consent.** If there is a substantial change in the nature or purpose of a service, the provider must obtain a new informed consent from the client.

Subd. 3. **Emergency or crisis services.** Informed consent is not required when a provider is providing emergency or crisis services. If services continue after the emergency or crisis has abated, informed consent must be obtained.

Sec. 29. **[148F.145] TERMINATION OF SERVICES.**

Subdivision 1. **Right to terminate services.** Either the client or the provider may terminate the professional relationship unless prohibited by law or court order.

Subd. 2. **Mandatory termination of services.** The provider shall promptly terminate services to a client whenever:

(1) the provider's objectivity or effectiveness is impaired, unless a resolution can be achieved as permitted in section 148F.155, subdivision 2; or

(2) the client would be harmed by further services.

Subd. 3. **Notification of termination.** When the provider initiates a termination of professional services, the provider shall inform the client either orally or in writing. This requirement shall not apply when the termination is due to the successful completion of a predefined service such as an assessment, or if the client terminates the professional relationship.

Subd. 4. **Recommendation upon termination.** (a) Upon termination of counseling services, the provider shall make a recommendation for alcohol and drug counseling services if requested by the client or if the provider believes the services are needed by the client.

(b) A recommendation for alcohol and drug counseling services is not required if the professional service provided is limited to an alcohol and drug assessment and a recommendation for continued services is not requested.

Subd. 5. **Absence from practice.** Nothing in this section requires the provider to terminate a client due to an absence from practice that is the result of a period of illness or injury that does not affect the provider's ability to practice with reasonable skill and safety, as long as arrangements have been made for temporary counseling services that may be needed by the client during the provider's absence.

Sec. 30. **[148F.150] RECORD KEEPING.**

Subdivision 1. **Record-keeping requirements.** Providers must maintain accurate and legible client records. Records must include, at a minimum:

(1) an accurate chronological listing of all substantive contacts with the client;

(2) documentation of services, including:

(i) assessment methods, data, and reports;

- (ii) an initial treatment plan and any revisions to the plan;
- (iii) the name of the individual providing services;
- (iv) the name and credentials of the individual who is professionally responsible for the services provided;
- (v) case notes for each date of service, including interventions;
- (vi) consultations with collateral sources;
- (vii) diagnoses or presenting problems; and
- (viii) documentation that informed consent was obtained, including written informed consent documents;
- (3) copies of all correspondence relevant to the client;
- (4) a client personal data sheet;
- (5) copies of all client authorizations for release of information;
- (6) an accurate chronological listing of all fees charged, if any, to the client or a third party payer; and
- (7) any other documents pertaining to the client.

Subd. 2. **Duplicate records.** If the client records containing the documentation required by subdivision 1 are maintained by the agency, clinic, or other facility where the provider renders services, the provider is not required to maintain duplicate records of client information.

Subd. 3. **Record retention.** The provider shall retain a client's record for a minimum of seven years after the date of the provider's last professional service to the client, except as otherwise provided by law. If the client is a minor, the record retention period does not begin until the client reaches the age of 18, except as otherwise provided by law.

Sec. 31. **[148F.155] IMPAIRED OBJECTIVITY OR EFFECTIVENESS.**

Subdivision 1. **Situations involving impaired objectivity or effectiveness.** (a) An alcohol and drug counselor must not provide alcohol and drug counseling services to a client or potential client when the counselor's objectivity or effectiveness is impaired.

(b) The provider shall not provide alcohol and drug counseling services to a client if doing so would create a multiple relationship. For purposes of this section, "multiple relationship" means one that is both professional and:

- (1) cohabitational;
- (2) familial;
- (3) one in which there has been personal involvement with the client or family member of the client that is reasonably likely to adversely affect the client's welfare or ability to benefit from services; or
- (4) one in which there is significant financial involvement other than legitimate payment for professional services rendered that is reasonably likely to adversely affect the client's welfare or ability to benefit from services.

If an unforeseen multiple relationship arises after services have been initiated, the provider shall promptly terminate the professional relationship.

(c) The provider shall not provide alcohol and drug counseling services to a client who is also the provider's student or supervisee. If an unforeseen situation arises in which both types of services are required or requested by the client or a third party, the provider shall decline to provide the services.

(d) The provider shall not provide alcohol and drug counseling services to a client when the provider is biased for or against the client for any reason that interferes with the provider's impartial judgment, including where the client is a member of a class legally protected from discrimination. The provider may provide services if the provider is working to resolve the impairment in the manner required under subdivision 2.

(e) The provider shall not provide alcohol and drug counseling services to a client when there is a fundamental divergence or conflict of service goals, interests, values, or attitudes between the client and the provider that adversely affects the professional relationship. The provider may provide services if the provider is working to resolve the impairment in the manner required under subdivision 2.

Subd. 2. **Resolution of impaired objectivity or effectiveness.** (a) When an impairment occurs that is listed in subdivision 1, paragraph (d) or (e), the provider may provide services only if the provider actively pursues resolution of the impairment and is able to do so in a manner that results in minimal adverse effects on the client or potential client.

(b) If the provider attempts to resolve the impairment, it must be by means of professional education, training, continuing education, consultation, psychotherapy, intervention, supervision, or discussion with the client or potential client, or an appropriate combination thereof.

Sec. 32. **[148F.160] PROVIDER IMPAIRMENT.**

The provider shall not provide counseling services to clients when the provider is unable to provide services with reasonable skill and safety as a result of a physical or mental illness or condition, including, but not limited to, substance abuse or dependence. During the period the provider is unable to practice with reasonable skill and safety, the provider shall either promptly terminate the professional relationship with all clients or shall make arrangements for other alcohol and drug counselors to provide temporary services during the provider's absence.

Sec. 33. **[148F.165] CLIENT WELFARE.**

Subdivision 1. **Explanation of procedures.** A client has the right to have, and a counselor has the responsibility to provide, a nontechnical explanation of the nature and purpose of the counseling procedures to be used and the results of tests administered to the client. The counselor shall establish procedures to be followed if the explanation is to be provided by another individual under the direction of the counselor.

Subd. 2. **Client bill of rights.** The client bill of rights required by section 144.652, shall be prominently displayed on the premises of the professional practice or provided as a handout to each client. The document must state that consumers of alcohol and drug counseling services have the right to:

- (1) expect that the provider meets the minimum qualifications of training and experience required by state law;
- (2) examine public records maintained by the Board of Behavioral Health and Therapy that contain the credentials of the provider;
- (3) report complaints to the Board of Behavioral Health and Therapy;

- (4) be informed of the cost of professional services before receiving the services;
- (5) privacy as defined and limited by law and rule;
- (6) be free from being the object of unlawful discrimination while receiving counseling services;
- (7) have access to their records as provided in sections 144.92 and 148F.135, subdivision 1, except as otherwise provided by law;
- (8) be free from exploitation for the benefit or advantage of the provider;
- (9) terminate services at any time, except as otherwise provided by law or court order;
- (10) know the intended recipients of assessment results;
- (11) withdraw consent to release assessment results, unless the right is prohibited by law or court order or was waived by prior written agreement;
- (12) a nontechnical description of assessment procedures; and
- (13) a nontechnical explanation and interpretation of assessment results, unless this right is prohibited by law or court order or was waived by prior written agreement.

Subd. 3. **Stereotyping.** The provider shall treat the client as an individual and not impose on the client any stereotypes of behavior, values, or roles related to human diversity.

Subd. 4. **Misuse of client relationship.** The provider shall not misuse the relationship with a client due to a relationship with another individual or entity.

Subd. 5. **Exploitation of client.** The provider shall not exploit the professional relationship with a client for the provider's emotional, financial, sexual, or personal advantage or benefit. This prohibition extends to former clients who are vulnerable or dependent on the provider.

Subd. 6. **Sexual behavior with client.** A provider shall not engage in any sexual behavior with a client including:

- (1) sexual contact, as defined in section 604.20, subdivision 7; or
- (2) any physical, verbal, written, interactive, or electronic communication, conduct, or act that may be reasonably interpreted to be sexually seductive, demeaning, or harassing to the client.

Subd. 7. **Sexual behavior with a former client.** A provider shall not engage in any sexual behavior as described in subdivision 6 within the two-year period following the date of the last counseling service to a former client. This prohibition applies whether or not the provider has formally terminated the professional relationship. This prohibition extends indefinitely for a former client who is vulnerable or dependent on the provider.

Subd. 8. **Preferences and options for treatment.** A provider shall disclose to the client the provider's preferences for choice of treatment or outcome and shall present other options for the consideration or choice of the client.

Subd. 9. **Referrals.** A provider shall make a prompt and appropriate referral of the client to another professional when requested to make a referral by the client.

Sec. 34. **[148F.170] WELFARE OF STUDENTS, SUPERVISEES, AND RESEARCH SUBJECTS.**

Subdivision 1. **General.** Due to the evaluative, supervisory, or other authority that providers who teach, evaluate, supervise, or conduct research have over their students, supervisees, or research subjects, they shall protect the welfare of these individuals.

Subd. 2. **Student, supervisee, and research subject protections.** To protect the welfare of their students, supervisees, or research subjects, providers shall not:

(1) discriminate on the basis of race, ethnicity, national origin, religious affiliation, language, age, gender, physical disabilities, mental capabilities, sexual orientation or identity, marital status, or socioeconomic status;

(2) exploit or misuse the professional relationship for the emotional, financial, sexual, or personal advantage or benefit of the provider or another individual or entity;

(3) engage in any sexual behavior with a current student, supervisee, or research subject, including sexual contact, as defined in section 604.20, subdivision 7, or any physical, verbal, written, interactive, or electronic communication, conduct, or act that may be reasonably interpreted to be sexually seductive, demeaning, or harassing. Nothing in this part shall prohibit a provider from engaging in teaching or research with an individual with whom the provider has a preexisting and ongoing sexual relationship;

(4) engage in any behavior likely to be deceptive or fraudulent;

(5) disclose evaluative information except for legitimate professional or scientific purposes; or

(6) engage in any other unprofessional conduct.

Sec. 35. **[148F.175] MEDICAL AND OTHER HEALTH CARE CONSIDERATIONS.**

Subdivision 1. **Coordinating services with other health care professionals.** Upon initiating services, the provider shall inquire whether the client has a preexisting relationship with another health care professional. If the client has such a relationship, and it is relevant to the provider's services to the client, the provider shall, to the extent possible and consistent with the wishes and best interests of the client, coordinate services for the client with the other health care professional. This requirement does not apply if brief crisis intervention services are provided.

Subd. 2. **Reviewing health care information.** If the provider determines that a client's preexisting relationship with another health care professional is relevant to the provider's services to the client, the provider shall, to the extent possible and consistent with the wishes and best interests of the client, review this information with the treating health care professional.

Subd. 3. **Relevant medical conditions.** If the provider believes that a client's psychological condition may have medical etiology or consequence, the provider shall, within the limits of the provider's competence, discuss this with the client and offer to assist in identifying medical resources for the client.

Sec. 36. **[148F.180] ASSESSMENTS; TESTS; REPORTS.**

Subdivision 1. **Assessments.** Providers who conduct assessments of individuals shall base their assessments on records, information, observations, and techniques sufficient to substantiate their findings. They shall render opinions only after they have conducted an examination of the individual adequate to support their statements or conclusions, unless an examination is not practical despite reasonable efforts. An assessment may be limited to reviewing records or providing testing services when an individual examination is not necessary for the opinion requested.

Subd. 2. **Tests.** Providers may administer and interpret tests within the scope of the counselor's training, skill, and competence.

Subd. 3. **Reports.** Written and oral reports, including testimony as an expert witness and letters to third parties concerning a client, must be based on information and techniques sufficient to substantiate their findings. Reports must include:

(1) a description of all assessments, evaluations, or other procedures, including materials reviewed, which serve as a basis for the provider's conclusions;

(2) reservations or qualifications concerning the validity or reliability of the opinions and conclusions formulated and recommendations made;

(3) a statement concerning any discrepancy, disagreement, or inconsistent or conflicting information regarding the circumstances of the case that may have a bearing on the provider's conclusions;

(4) a statement of the nature of and reason for the use of a test that is administered, recorded, scored, or interpreted in other than a standard and objective manner; and

(5) a statement indicating when test interpretations or report conclusions are not based on direct contact between the client and the provider.

Subd. 4. **Private information.** Test results and interpretations regarding an individual are private information.

Sec. 37. **[148F.185] PUBLIC STATEMENTS.**

Subdivision 1. **Prohibition against false or misleading information.** Public statements by providers must not include false or misleading information. Providers shall not solicit or use testimonials by quotation or implication from current clients or former clients who are vulnerable to undue influence. The provider shall make reasonable efforts to ensure that public statements by others on behalf of the provider are truthful and shall make reasonable remedial efforts to bring a public statement into compliance with sections 148F.120 to 148F.205 when the provider becomes aware of a violation.

Subd. 2. **Misrepresentation.** The provider shall not misrepresent directly or by implication professional qualifications including education, training, experience, competence, credentials, or areas of specialization. The provider shall not misrepresent, directly or by implication, professional affiliations or the purposes and characteristics of institutions and organizations with which the provider is professionally associated.

Subd. 3. **Use of specialty board designation.** Providers may represent themselves as having an area of specialization from a specialty board, such as a designation as a diplomate or fellow, if the specialty board used, at a minimum, the following criteria to award such a designation:

(1) specified educational requirements defined by the specialty board;

(2) specified experience requirements defined by the specialty board;

(3) a work product evaluated by other specialty board members; and

(4) a face-to-face examination by a committee of specialty board members or a comprehensive written examination in the area of specialization.

Sec. 38. **[148F.190] FEES; STATEMENTS.**

Subdivision 1. **Disclosure.** The provider shall disclose the fees for professional services to a client before providing services.

Subd. 2. **Itemized statement.** The provider shall itemize fees for all services for which the client or a third party is billed and make the itemized statement available to the client. The statement shall identify the date the service was provided, the nature of the service, the name of the individual who provided the service, and the name of the individual who is professionally responsible for the service.

Subd. 3. **Representation of billed services.** The provider shall not directly or by implication misrepresent to the client or to a third party billed for services the nature or the extent of the services provided.

Subd. 4. **Claiming fees.** The provider shall not claim a fee for counseling services unless the provider is either the direct provider of the services or is clinically responsible for providing the services and under whose supervision the services were provided.

Subd. 5. **Referrals.** No commission, rebate, or other form of remuneration may be given or received by a provider for the referral of clients for counseling services.

Sec. 39. **[148F.195] AIDING AND ABETTING UNLICENSED PRACTICE.**

A provider shall not aid or abet an unlicensed individual to engage in the practice of alcohol and drug counseling. A provider who supervises a student as part of an alcohol and drug counseling practicum is not in violation of this section. Properly qualified individuals who administer and score testing instruments under the direction of a provider who maintains responsibility for the service are not considered in violation of this section.

Sec. 40. **[148F.200] VIOLATION OF LAW.**

A provider shall not violate any law in which the facts giving rise to the violation involve the practice of alcohol and drug counseling as defined in sections 148F.001 to 148F.205. In any board proceeding alleging a violation of this section, the proof of a conviction of a crime constitutes proof of the underlying factual elements necessary to that conviction.

Sec. 41. **[148F.205] COMPLAINTS TO BOARD.**

Subdivision 1. **Mandatory reporting requirements.** A provider is required to file a complaint when the provider knows or has reason to believe that another provider:

(1) is unable to practice with reasonable skill and safety as a result of a physical or mental illness or condition, including, but not limited to, substance abuse or dependence, except that this mandated reporting requirement is deemed fulfilled by a report made to the Health Professionals Services Program (HPSP) as provided by section 214.33, subdivision 1;

(2) is engaging in or has engaged in sexual behavior with a client or former client in violation of section 148F.165, subdivision 6 or 7;

(3) has failed to report abuse or neglect of children or vulnerable adults in violation of section 626.556 or 626.557; or

(4) has employed fraud or deception in obtaining or renewing an alcohol and drug counseling license.

Subd. 2. **Optional reporting requirements.** Other than conduct listed in subdivision 1, a provider who has reason to believe that the conduct of another provider appears to be in violation of sections 148F.001 to 148F.205 may file a complaint with the board.

Subd. 3. **Institutions.** A state agency, political subdivision, agency of a local unit of government, private agency, hospital, clinic, prepaid medical plan, or other health care institution or organization located in this state shall report to the board any action taken by the agency, institution, or organization or any of its administrators or medical or other committees to revoke, suspend, restrict, or condition an alcohol and drug counselor's privilege to practice or treat patients or clients in the institution, or as part of the organization, any denial of privileges, or any other disciplinary action for conduct that might constitute grounds for disciplinary action by the board under sections 148F.001 to 148F.205. The institution, organization, or governmental entity shall also report the resignation of any alcohol and drug counselors before the conclusion of any disciplinary action proceeding for conduct that might constitute grounds for disciplinary action under this chapter, or before the commencement of formal charges but after the practitioner had knowledge that formal charges were contemplated or were being prepared.

Subd. 4. **Professional societies.** A state or local professional society for alcohol and drug counselors shall report to the board any termination, revocation, or suspension of membership or any other disciplinary action taken against an alcohol and drug counselor. If the society has received a complaint that might be grounds for discipline under this chapter against a member on which it has not taken any disciplinary action, the society shall report the complaint and the reason why it has not taken action on it or shall direct the complainant to the board.

Subd. 5. **Insurers.** Each insurer authorized to sell insurance described in section 60A.06, subdivision 1, clause (13), and providing professional liability insurance to alcohol and drug counselors or the Medical Joint Underwriting Association under chapter 62F, shall submit to the board quarterly reports concerning the alcohol and drug counselors against whom malpractice settlements and awards have been made. The report must contain at least the following information:

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

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

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

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

(5) the address of the practice of the alcohol and drug counselor against whom an award was made or with whom a settlement was made; and

(6) the name of the alcohol and drug counselor against whom an award was made or with whom a settlement was made. The insurance company shall, in addition to the above information, submit to the board any information, records, and files, including clients' charts and records, it possesses that tend to substantiate a charge that a licensed alcohol and drug counselor may have engaged in conduct violating this chapter.

Subd. 6. **Self-reporting.** An alcohol and drug counselor shall report to the board any personal action that would require that a report be filed with the board by any person, health care facility, business, or organization under subdivisions 1 and 3 to 5. The alcohol and drug counselor shall also report the revocation, suspension, restriction, limitation, or other disciplinary action in this state and report the filing of charges regarding the practitioner's license or right of practice in another state or jurisdiction.

Subd. 7. **Permission to report.** A person who has knowledge of any conduct constituting grounds for disciplinary action relating to the practice of alcohol and drug counseling under this chapter may report the violation to the board.

Subd. 8. **Client complaints to the board.** A provider shall, upon request, provide information regarding the procedure for filing a complaint with the board and shall, upon request, assist with filing a complaint. A provider shall not attempt to dissuade a client from filing a complaint with the board, or require that the client waive the right to file a complaint with the board as a condition for providing services.

Subd. 9. **Deadlines; forms.** Reports required by subdivisions 1 and 3 to 6 must be submitted no later than 30 days after the reporter learns of the occurrence of the reportable event or transaction. The board may provide forms for the submission of the reports required by this section and may require that reports be submitted on the forms provided.

Sec. 42. **REPORT; BOARD OF BEHAVIORAL HEALTH AND THERAPY.**

(a) The Board of Behavioral Health and Therapy shall convene a working group to evaluate the feasibility of a tiered licensure system for alcohol and drug counselors in Minnesota. This evaluation shall include proposed scopes of practice for each tier, specific degree and other education and examination requirements for each tier, the clinical settings in which each tier of practitioner would be utilized, and any other issues the board deems necessary.

(b) Members of the working group shall include, but not be limited to, members of the board, licensed alcohol and drug counselors, alcohol and drug counselor temporary permit holders, faculty members from two- and four-year education programs, professional organizations, and employers.

(c) The board shall present its written report, including any proposed legislation, to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services no later than December 15, 2015.

(d) The working group is not subject to the provisions of Minnesota Statutes, section 15.059.

Sec. 43. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall consult with the Board of Behavioral Health and Therapy to make any necessary cross-reference changes that are needed as a result of the passage of this act.

Sec. 44. **REPEALER.**

(a) Minnesota Statutes 2010, sections 148C.01, subdivisions 1, 1a, 2, 2a, 2b, 2c, 2d, 2e, 2f, 2g, 4, 4a, 5, 7, 9, 10, 11, 11a, 12, 12a, 13, 14, 15, 16, 17, and 18; 148C.015; 148C.03, subdivisions 1 and 4; 148C.0351, subdivisions 1, 3, and 4; 148C.0355; 148C.04, subdivisions 1, 2, 3, 4, 5a, 6, and 7; 148C.044; 148C.045; 148C.05, subdivisions 1, 1a, 5, and 6; 148C.055; 148C.07; 148C.075; 148C.08; 148C.09, subdivisions 1, 1a, 2, and 4; 148C.091; 148C.093; 148C.095; 148C.099; 148C.10, subdivisions 1, 2, and 3; 148C.11; and 148C.12, subdivisions 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15, are repealed.

(b) Minnesota Rules, parts 4747.0010; 4747.0020; 4747.0030, subparts 1, 2, 3, 4, 5, 7, 8, 9, 10, 15, 17, 18, 20, 21, 22, 24, and 29; 4747.0040; 4747.0050; 4747.0060; 4747.0070, subparts 1, 2, 3, and 6; 4747.0200; 4747.0400, subpart 1; 4747.0700; 4747.0800; 4747.0900; 4747.1100, subparts 1, 4, 5, 6, 7, 8, and 9; 4747.1400, subparts 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, and 13; 4747.1500; 6310.3100, subpart 2; 6310.3600; and 6310.3700, subpart 1, are repealed.

Sec. 45. **EFFECTIVE DATE.**

This article is effective August 1, 2012.

ARTICLE 2  
LICENSED PROFESSIONAL COUNSELING

Section 1. Minnesota Statutes 2010, section 148B.5301, subdivision 1, is amended to read:

Subdivision 1. **General requirements.** (a) To be licensed as a licensed professional clinical counselor (LPCC), an applicant must provide satisfactory evidence to the board that the applicant:

(1) is at least 18 years of age;

(2) is of good moral character;

(3) has completed a master's or doctoral degree program in counseling or a related field, as determined by the board based on the criteria in items (i) to (x), that includes a minimum of 48 semester hours or 72 quarter hours and a supervised field experience in counseling that is not fewer than 700 hours. The degree must be from a counseling program recognized by the Council for Accreditation of Counseling and Related Education Programs (CACREP) or from an institution of higher education that is accredited by a regional accrediting organization recognized by the Council for Higher Education Accreditation (CHEA). Specific academic course content and training must include coursework in each of the following subject areas:

(i) helping relationship, including counseling theory and practice;

(ii) human growth and development;

(iii) lifestyle and career development;

(iv) group dynamics, processes, counseling, and consulting;

(v) assessment and appraisal;

(vi) social and cultural foundations, including multicultural issues;

(vii) principles of etiology, treatment planning, and prevention of mental and emotional disorders and dysfunctional behavior;

(viii) family counseling and therapy;

(ix) research and evaluation; and

(x) professional counseling orientation and ethics;

(4) has demonstrated competence in professional counseling by passing the National Clinical Mental Health Counseling Examination (NCMHCE), administered by the National Board for Certified Counselors, Inc. (NBCC) and ethical, oral, and situational examinations as prescribed by the board. ~~In lieu of the NCMHCE, applicants who have taken and passed the National Counselor Examination (NCE) administered by the NBCC, or another board-approved examination, need only take and pass the Examination of Clinical Counseling Practice (ECCP) administered by the NBCC;~~

(5) has earned graduate-level semester credits or quarter-credit equivalents in the following clinical content areas as follows:

(i) six credits in diagnostic assessment for child or adult mental disorders; normative development; and psychopathology, including developmental psychopathology;

(ii) three credits in clinical treatment planning, with measurable goals;

(iii) six credits in clinical intervention methods informed by research evidence and community standards of practice;

(iv) three credits in evaluation methodologies regarding the effectiveness of interventions;

(v) three credits in professional ethics applied to clinical practice; and

(vi) three credits in cultural diversity; and

(6) has demonstrated successful completion of 4,000 hours of supervised, post-master's degree professional practice in the delivery of clinical services in the diagnosis and treatment of child and adult mental illnesses and disorders, conducted according to subdivision 2.

(b) If coursework in paragraph (a) was not completed as part of the degree program required by paragraph (a), clause (3), the coursework must be taken and passed for credit, and must be earned from a counseling program or institution that meets the requirements of paragraph (a), clause (3).

Sec. 2. Minnesota Statutes 2010, section 148B.5301, is amended by adding a subdivision to read:

**Subd. 3a. Conversion from licensed professional counselor to licensed professional clinical counselor.** (a) Until August 1, 2014, an individual currently licensed in the state of Minnesota as a licensed professional counselor may convert to a LPCC by providing evidence satisfactory to the board that the applicant has met the following requirements:

(1) is at least 18 years of age;

(2) is of good moral character;

(3) has a license that is active and in good standing;

(4) has no complaints pending, uncompleted disciplinary orders, or corrective action agreements;

(5) has completed a master's or doctoral degree program in counseling or a related field, as determined by the board, and whose degree was from a counseling program recognized by CACREP or from an institution of higher education that is accredited by a regional accrediting organization recognized by CHEA;

(6) has earned 24 graduate-level semester credits or quarter-credit equivalents in clinical coursework which includes content in the following clinical areas:

(i) diagnostic assessment for child and adult mental disorders; normative development; and psychopathology, including developmental psychopathology;

(ii) clinical treatment planning, with measurable goals;

(iii) clinical intervention methods informed by research evidence and community standards of practice;

(iv) evaluation methodologies regarding the effectiveness of interventions;

(v) professional ethics applied to clinical practice; and

(vi) cultural diversity;

(7) has demonstrated, to the satisfaction of the board, successful completion of 4,000 hours of supervised, post-master's degree professional practice in the delivery of clinical services in the diagnosis and treatment of child and adult mental illnesses and disorders; and

(8) has paid the LPCC application and licensure fees required in section 148B.53, subdivision 3.

(b) If the coursework in paragraph (a) was not completed as part of the degree program required by paragraph (a), clause (5), the coursework must be taken and passed for credit, and must be earned from a counseling program or institution that meets the requirements in paragraph (a), clause (5).

(c) This subdivision expires August 1, 2014.

**EFFECTIVE DATE.** This section is effective retroactively from August 1, 2011.

Sec. 3. Minnesota Statutes 2010, section 148B.5301, subdivision 4, is amended to read:

Subd. 4. **Conversion to licensed professional clinical counselor after August 1, 2011 2014.** After August 1, 2014, an individual licensed in the state of Minnesota as a licensed professional counselor may convert to a LPCC by providing evidence satisfactory to the board that the applicant has met the requirements of subdivisions 1 and 2, subject to the following:

(1) the individual's license must be active and in good standing;

(2) the individual must not have any complaints pending, uncompleted disciplinary orders, or corrective action agreements; and

(3) the individual has paid the LPCC application and licensure fees required in section 148B.53, subdivision 3.

Sec. 4. Minnesota Statutes 2010, section 148B.54, subdivision 2, is amended to read:

Subd. 2. **Continuing education.** At the completion of the first four years of licensure, a licensee must provide evidence satisfactory to the board of completion of 12 additional postgraduate semester credit hours or its equivalent in counseling as determined by the board, except that no licensee shall be required to show evidence of greater than 60 semester hours or its equivalent. In addition to completing the requisite graduate coursework, each licensee shall also complete in the first four years of licensure a minimum of 40 hours of continuing education activities approved

by the board under Minnesota Rules, part 2150.2540. Graduate credit hours successfully completed in the first four years of licensure may be applied to both the graduate credit requirement and to the requirement for 40 hours of continuing education activities. A licensee may receive 15 continuing education hours per semester credit hour or ten continuing education hours per quarter credit hour. Thereafter, at the time of renewal, each licensee shall provide evidence satisfactory to the board that the licensee has completed during each two-year period at least the equivalent of 40 clock hours of professional postdegree continuing education in programs approved by the board and continues to be qualified to practice under sections 148B.50 to 148B.593.

Sec. 5. Minnesota Statutes 2010, section 148B.54, subdivision 3, is amended to read:

Subd. 3. **Relicensure following termination.** An individual whose license was terminated ~~prior to August 1, 2010,~~ and who can demonstrate completion of the graduate credit requirement in subdivision 2, does not need to comply with the continuing education requirement of Minnesota Rules, part 2150.2520, subpart 4, or with the continuing education requirements for relicensure following termination in Minnesota Rules, part 2150.0130, subpart 2. This section does not apply to an individual whose license has been canceled.

Sec. 6. **EFFECTIVE DATE.**

Sections 1 to 5 are effective August 1, 2012, unless a different effective date is specified."

Delete the title and insert:

"A bill for an act relating to health licensing; changing licensing provisions for alcohol and drug counselors and licensed counselors; providing penalties; setting licensing fees; amending Minnesota Statutes 2010, sections 148B.5301, subdivisions 1, 4, by adding a subdivision; 148B.54, subdivisions 2, 3; proposing coding for new law as Minnesota Statutes, chapter 148F; repealing Minnesota Statutes 2010, sections 148C.01, subdivisions 1, 1a, 2, 2a, 2b, 2c, 2d, 2e, 2f, 2g, 4, 4a, 5, 7, 9, 10, 11, 11a, 12, 12a, 13, 14, 15, 16, 17, 18; 148C.015; 148C.03, subdivisions 1, 4; 148C.0351, subdivisions 1, 3, 4; 148C.0355; 148C.04, subdivisions 1, 2, 3, 4, 5a, 6, 7; 148C.044; 148C.045; 148C.05, subdivisions 1, 1a, 5, 6; 148C.055; 148C.07; 148C.075; 148C.08; 148C.09, subdivisions 1, 1a, 2, 4; 148C.091; 148C.093; 148C.095; 148C.099; 148C.10, subdivisions 1, 2, 3; 148C.11; 148C.12, subdivisions 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15; Minnesota Rules, parts 4747.0010; 4747.0020; 4747.0030, subparts 1, 2, 3, 4, 5, 7, 8, 9, 10, 15, 17, 18, 20, 21, 22, 24, 29; 4747.0040; 4747.0050; 4747.0060; 4747.0070, subparts 1, 2, 3, 6; 4747.0200; 4747.0400, subpart 1; 4747.0700; 4747.0800; 4747.0900; 4747.1100, subparts 1, 4, 5, 6, 7, 8, 9; 4747.1400, subparts 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13; 4747.1500; 6310.3100, subpart 2; 6310.3600; 6310.3700, subpart 1."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Health and Human Services Finance.

The report was adopted.

McNamara from the Committee on Environment, Energy and Natural Resources Policy and Finance to which was referred:

H. F. No. 2226, A bill for an act relating to agriculture; delaying the effective date to eliminate certain limitations on wind easements; amending Laws 2008, chapter 296, article 1, section 25, as amended.

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

The report was adopted.

Gottwalt from the Committee on Health and Human Services Reform to which was referred:

H. F. No. 2252, A bill for an act relating to human services; instructing the commissioner to develop a plan for a residential campus for individuals with autism.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Health and Human Services Finance.

The report was adopted.

Peppin from the Committee on Government Operations and Elections to which was referred:

H. F. No. 2340, A bill for an act relating to health; requiring licensure of certain facilities that perform abortions; proposing coding for new law in Minnesota Statutes, chapter 145.

Reported the same back with the following amendments:

Page 1, line 12, delete "data privacy"

Page 1, line 13, delete everything after the period

Page 1, delete lines 14 to 19

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Health and Human Services Finance.

The report was adopted.

Urdahl from the Legacy Funding Division to which was referred:

H. F. No. 2430, A bill for an act relating to cultural heritage; appropriating money for agency rulemaking access.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1  
OUTDOOR HERITAGE FUND

Section 1. **OUTDOOR HERITAGE APPROPRIATION.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the outdoor heritage fund and are available for the fiscal years indicated for each purpose. The figures "2012" and "2013" used in this article mean that the appropriations listed under the figure are available for the fiscal year ending June 30, 2012, or June 30, 2013, respectively. "The first year" is fiscal year 2012. "The second year" is fiscal year 2013. "The biennium" is fiscal years 2012 and 2013. The appropriations in this article are onetime.

**APPROPRIATIONS**  
**Available for the Year**  
**Ending June 30**

|  | <b><u>2012</u></b> | <b><u>2013</u></b> |
|--|--------------------|--------------------|
|--|--------------------|--------------------|

Sec. 2. **OUTDOOR HERITAGE**

Subdivision 1. **Total Appropriation**

|  |                     |                            |
|--|---------------------|----------------------------|
|  | <b><u>\$-0-</u></b> | <b><u>\$97,420,000</u></b> |
|--|---------------------|----------------------------|

This appropriation is from the outdoor heritage fund. The amounts that may be spent for each purpose are specified in the following subdivisions.

Subd. 2. **Prairies**

|  |                   |                          |
|--|-------------------|--------------------------|
|  | <b><u>-0-</u></b> | <b><u>24,640,000</u></b> |
|--|-------------------|--------------------------|

(a) **Minnesota Buffers for Wildlife and Water - Phase II**

\$2,090,000 in the second year is to the Board of Water and Soil Resources in cooperation with Pheasants Forever to acquire permanent conservation easements to enhance habitat by expanding clean water fund riparian wildlife buffers on private land. A list of proposed permanent conservation easements must be provided as part of the final report. The accomplishment plan must include an easement stewardship plan. Up to \$90,000 is for establishing a monitoring and enforcement fund as approved in the accomplishment plan and subject to Minnesota Statutes, section 97A.056, subdivision 17. An annual financial report is required for any monitoring and enforcement fund established, including expenditures from the fund and a description of annual monitoring and enforcement activities.

(b) **Minnesota Prairie Recovery Project - Phase III**

\$4,610,000 in the second year is to the commissioner of natural resources for an agreement with The Nature Conservancy to acquire native prairie and savanna and restore and enhance grasslands and savanna. A list of proposed land acquisitions must be provided as part of the required accomplishment plan. Annual income statements and balance sheets for income and expenses from land acquired with this appropriation must be submitted to the Lessard-Sams Outdoor Heritage Council no later than 180 days following the close of The Nature Conservancy's fiscal year.

(c) **Cannon River Headwaters Habitat Complex - Phase II**

\$1,760,000 in the second year is to the commissioner of natural resources for an agreement with The Trust for Public Land to acquire and restore lands in the Cannon River watershed for wildlife management area purposes under Minnesota Statutes, section 86A.05, subdivision 8, or aquatic management area purposes under Minnesota Statutes, sections 86A.05, subdivision 14, and 97C.02. A list of proposed land acquisitions must be provided as part of the required accomplishment plan.

**(d) Wildlife Management Area Acquisition**

\$2,900,000 in the second year is to the commissioner of natural resources to acquire land in fee for wildlife management area purposes under Minnesota Statutes, section 86A.05, subdivision 8. A list of proposed land acquisitions must be provided as part of the required accomplishment plan.

**(e) Northern Tallgrass Prairie National Wildlife Refuge Land Acquisition - Phase IV**

\$1,580,000 in the second year is to the commissioner of natural resources for an agreement with The Nature Conservancy in cooperation with the United States Fish and Wildlife Service to acquire land in fee or permanent conservation easements within the Northern Tallgrass Prairie Habitat Preservation Area in western Minnesota for addition to the Northern Tallgrass Prairie National Wildlife Refuge. A list of proposed land acquisitions must be provided as part of the required accomplishment plan. The accomplishment plan must include an easement monitoring and enforcement plan.

**(f) Accelerating the Wildlife Management Area Program - Phase IV**

\$3,300,000 in the second year is to the commissioner of natural resources for an agreement with Pheasants Forever to acquire land in fee for wildlife management area purposes under Minnesota Statutes, section 86A.05, subdivision 8. A list of proposed land acquisitions must be provided as part of the required accomplishment plan.

**(g) Green Corridor Legacy Program - Phase IV**

\$1,730,000 in the second year is to the commissioner of natural resources for an agreement with the Redwood Area Development Corporation to acquire land in fee for wildlife management area purposes under Minnesota Statutes, section 86A.05, subdivision 8, and for aquatic management areas under Minnesota Statutes, sections 86A.05, subdivision 14, and 97C.02. A list of proposed land acquisitions must be provided as part of the required accomplishment plan.

**(h) Accelerated Prairie Restoration and Enhancement on DNR Lands - Phase IV**

\$4,300,000 in the second year is to the commissioner of natural resources to accelerate the restoration and enhancement of wildlife management areas, scientific and natural areas, and land under native prairie bank easements. A list of proposed restorations and enhancements must be provided as part of the required accomplishment plan.

**(i) Anoka Sand Plain Habitat Restoration and Enhancement - Phase II**

\$1,050,000 in the second year is to the commissioner of natural resources for agreements to restore and enhance habitat on public lands in the Anoka Sand Plain and along the Rum River as follows: \$558,750 to Great River Greening; \$99,400 to the Anoka Conservation District; and \$391,850 to the National Wild Turkey Federation. A list of proposed restorations and enhancements must be provided as part of the required accomplishment plan.

**(j) Enhanced Public Grasslands**

\$1,320,000 in the second year is to the commissioner of natural resources for an agreement with Pheasants Forever in cooperation with the Minnesota Prairie Chicken Society to restore and enhance habitat on public lands. The criteria for selection of projects must be included in the accomplishment plan. A list of proposed restorations and enhancements must be provided as part of the final report.

**Subd. 3. Forests**

-0-

10,300,000

**(a) Protecting Mississippi River Corridor Habitat ACUB Partnership - Phase II**

\$480,000 in the second year is to the Board of Water and Soil Resources to acquire permanent conservation easements on land adjacent to the Nokasippi River and the boundaries of the Minnesota National Guard Army compatible use buffer (ACUB). A list of proposed land acquisitions must be provided as part of the required accomplishment plan. The accomplishment plan must include an easement stewardship plan. Up to \$4,800 is for establishing a monitoring and enforcement fund as approved in the accomplishment plan and subject to Minnesota Statutes, section 97A.056, subdivision 17. An annual financial report is required for any monitoring and enforcement fund established, including expenditures from the fund and a description of annual monitoring and enforcement activities.

**(b) Mississippi Northwoods Habitat Complex Protection**

\$7,040,000 in the second year is to the commissioner of natural resources to acquire land in fee along the Mississippi River in Crow Wing County to be added to Crow Wing State Forest. Prior to the acquisition, an independent state appraisal must be conducted and the purchase price must not exceed the appraised fair market value determined by the appraisal. A land description must be provided as part of the required accomplishment plan. Development of a paved trail on land acquired under this paragraph constitutes an alteration of the intended use of the

interest in real property and must be handled according to Minnesota Statutes, section 97A.056, subdivision 15. The commissioner of natural resources shall consult with the Lessard-Sams Outdoor Heritage Council when planning for any paved trail on land acquired with this appropriation, including any plans for trail alignment.

**(c) Northeastern Minnesota Sharp-Tailed Grouse Habitat Partnership - Phase III**

\$1,340,000 in the second year is to the commissioner of natural resources for an agreement with Pheasants Forever in cooperation with the Minnesota Sharp-Tailed Grouse Society to acquire and enhance lands for wildlife management area purposes under Minnesota Statutes, section 86A.05, subdivision 8. A list of proposed land acquisitions must be provided as part of the required accomplishment plan.

**(d) Protect Key Forest Habitat Lands in Cass County - Phase III**

\$480,000 in the second year is to the commissioner of natural resources for an agreement with Cass County to acquire land in fee in Cass County for forest wildlife habitat. A list of proposed land acquisitions must be provided as part of the required accomplishment plan.

**(e) Minnesota Moose Habitat Collaborative**

\$960,000 in the second year is to the commissioner of natural resources for an agreement with the Minnesota Deer Hunters Association to restore and enhance public forest lands in northeastern Minnesota for moose habitat purposes. A list of proposed restorations and enhancements must be provided as part of the required accomplishment plan.

**Subd. 4. Wetlands**

-0-

31,140,000

**(a) Reinvest in Minnesota Wetlands Reserve Program Partnership - Phase IV**

\$13,810,000 in the second year is to the Board of Water and Soil Resources to acquire permanent conservation easements and restore wetlands and associated upland habitat in cooperation with the United States Department of Agriculture Wetlands Reserve Program. A list of land acquisitions must be provided as part of the final report. The accomplishment plan must include an easement stewardship plan. Up to \$180,000 is for establishing a monitoring and enforcement fund as approved in the accomplishment plan and subject to Minnesota Statutes, section 97A.056, subdivision 17. An annual financial report is required

for any monitoring and enforcement fund established, including expenditures from the fund and a description of annual monitoring and enforcement activities.

**(b) Accelerating the Waterfowl Production Area Program - Phase IV**

\$5,400,000 in the second year is to the commissioner of natural resources for an agreement with Pheasants Forever to acquire land in fee to be managed and designated as waterfowl production areas in Minnesota, in cooperation with the United States Fish and Wildlife Service. A list of proposed land acquisitions must be provided as part of the required accomplishment plan.

**(c) Columbus Lake Conservation Area**

\$940,000 in the second year is to the commissioner of natural resources for an agreement with Anoka County to acquire land in fee for conservation purposes that connect wetlands and shallow lakes to the Lamprey Pass Wildlife Management Area. A list of proposed land acquisitions must be provided as part of the required accomplishment plan.

**(d) Living Shallow Lakes and Wetlands Initiative - Phase II**

\$4,490,000 in the second year is to the commissioner of natural resources for an agreement with Ducks Unlimited to assess, restore, and enhance shallow lakes and wetlands, including technical assistance, survey, design, and engineering to develop new enhancement and restoration projects for future implementation. A list of proposed restorations and enhancements must be provided as part of the required accomplishment plan.

**(e) Accelerated Shallow Lakes and Wetlands Enhancement - Phase IV**

\$3,870,000 in the second year is to the commissioner of natural resources to develop engineering designs and complete construction to enhance shallow lakes and wetlands. A list of proposed restorations and enhancements must be provided as part of the required accomplishment plan. Work must be completed within three years of the effective date of this article.

**(f) Marsh Lake Enhancement**

\$2,630,000 in the second year is to the commissioner of natural resources to complete design and construction to modify the dam at Marsh Lake and return the historic outlet of the Pomme de Terre River to Lac Qui Parle.

**Subd. 5. Habitats**-0-31,120,000**(a) DNR Aquatic Habitat - Phase IV**

\$3,480,000 in the second year is to the commissioner of natural resources to acquire interests in land in fee or permanent conservation easements for aquatic management areas under Minnesota Statutes, sections 86A.05, subdivision 14, and 97C.02, and to restore and enhance aquatic habitat. A list of proposed land acquisitions must be provided as part of the required accomplishment plan. The accomplishment plan must include an easement stewardship plan. Up to \$25,000 is for establishing a monitoring and enforcement fund as approved in the accomplishment plan and subject to Minnesota Statutes, section 97A.056, subdivision 17. An annual financial report is required for any monitoring and enforcement fund established, including expenditures from the fund and a description of annual monitoring and enforcement activities.

**(b) Metro Big Rivers Habitat - Phase III**

\$3,680,000 in the second year is to the commissioner of natural resources for agreements to acquire interests in land in fee or permanent conservation easements and to restore and enhance natural systems associated with the Mississippi, Minnesota, and St. Croix Rivers as follows: \$1,000,000 to the Minnesota Valley National Wildlife Refuge Trust, Inc.; \$375,000 to the Friends of the Mississippi; \$375,000 to Great River Greening; \$930,000 to The Minnesota Land Trust; and \$1,000,000 to The Trust for Public Land. A list of proposed acquisitions, restorations, and enhancements must be provided as part of the required accomplishment plan. The accomplishment plan must include an easement stewardship plan. Up to \$51,000 is for establishing a monitoring and enforcement fund as approved in the accomplishment plan and subject to Minnesota Statutes, section 97A.056, subdivision 17. An annual financial report is required for any monitoring and enforcement fund established, including expenditures from the fund and a description of annual monitoring and enforcement activities.

**(c) Dakota County Riparian and Lakeshore Protection and Management - Phase III**

\$480,000 in the second year is to the commissioner of natural resources for an agreement with Dakota County to acquire permanent conservation easements and restore and enhance habitats along the Mississippi, Cannon, and Vermillion Rivers. A list of proposed acquisitions, restorations, and enhancements must be provided as part of the required accomplishment plan. The accomplishment plan must include an easement stewardship plan.

Up to \$20,000 is for establishing a monitoring and enforcement fund as approved in the accomplishment plan and subject to Minnesota Statutes, section 97A.056, subdivision 17. An annual financial report is required for any monitoring and enforcement fund established, including expenditures from the fund and a description of annual monitoring and enforcement activities.

**(d) Lower St. Louis River Habitat Restoration**

\$3,670,000 in the second year is to the commissioner of natural resources to restore habitat in the lower St. Louis River estuary. A list of proposed projects must be provided as part of the required accomplishment plan.

**(e) Coldwater Fish Habitat Enhancement - Phase IV**

\$2,120,000 in the second year is to the commissioner of natural resources for an agreement with Minnesota Trout Unlimited to restore and enhance coldwater fish lake, river, and stream habitats in Minnesota. A list of proposed restorations and enhancements must be provided as part of the required accomplishment plan.

**(f) Grand Marais Creek Outlet Restoration**

\$2,320,000 in the second year is to the commissioner of natural resources for an agreement with the Red Lake Watershed District to restore and enhance stream and related habitat in Grand Marais Creek. A list of proposed restorations and enhancements must be provided as part of the required accomplishment plan.

**(g) Knife River Habitat Restoration**

\$380,000 in the second year is to the commissioner of natural resources for an agreement with the Lake Superior Steelhead Association to restore trout habitat in the Upper Knife River Watershed. A list of proposed restorations must be provided as part of the required accomplishment plan.

**(h) Protect Aquatic Habitat from Asian Carp**

\$7,500,000 in the second year is to the commissioner of natural resources to design, construct, operate, and evaluate structural deterrents for Asian carp to protect Minnesota's aquatic habitat. Use of this money requires a one-to-one match for projects on state boundary waters.

**(i) Protect Aquatic Habitat from Aquatic Invasive Species**

\$2,200,000 in the second year is to the Board of Regents of the University of Minnesota for research on aquatic invasive species that threaten or have the potential to threaten the state's lakes.

rivers, streams, wetlands, and other aquatic habitats for fish, game, and wildlife. This appropriation is added to the appropriation in article 2, section 4, for the purposes specified in that section and is available until June 30, 2018.

**(j) Aquatic Habitat Restoration Grants**

\$300,000 in the second year is to the commissioner of natural resources for grants to local units of government and lake associations for aquatic habitat restoration.

**(k) Outdoor Heritage Conservation Partners Grant Program - Phase IV**

\$4,990,000 in the second year is to the commissioner of natural resources for a program to provide competitive, matching grants of up to \$400,000 to local, regional, state, and national organizations for enhancing, restoring, or protecting forests, wetlands, prairies, and habitat for fish, game, or wildlife in Minnesota. Grants shall not be made for activities required to fulfill the duties of owners of lands subject to conservation easements. Grants shall not be made from appropriations in this paragraph for projects that have a total project cost exceeding \$575,000. \$366,000 of this appropriation may be spent for personnel costs and other direct and necessary administrative costs. Grantees may acquire land or interests in land. Easements must be permanent. Land acquired in fee must be open to hunting and fishing during the open season unless otherwise provided by state law. The program shall require a match of at least ten percent from nonstate sources for all grants. The match may be cash or in-kind resources. For grant applications of \$25,000 or less, the commissioner shall provide a separate, simplified application process. Subject to Minnesota Statutes, the commissioner of natural resources shall, when evaluating projects of equal value, give priority to organizations that have a history of receiving or charter to receive private contributions for local conservation or habitat projects. If acquiring land or a conservation easement, priority shall be given to projects associated with existing wildlife management areas under Minnesota Statutes, section 86A.05, subdivision 8; scientific and natural areas under Minnesota Statutes, sections 84.033 and 86A.05, subdivision 5; and aquatic management areas under Minnesota Statutes, sections 86A.05, subdivision 14, and 97C.02. All restoration or enhancement projects must be on land permanently protected by a conservation easement or public ownership or in public waters as defined in Minnesota Statutes, section 103G.005, subdivision 15. Priority shall be given to restoration and enhancement projects on public lands. Minnesota Statutes, section 97A.056, subdivision 13, applies to grants awarded under this paragraph. This appropriation is available until June 30, 2016. No less than five percent of the amount of each grant must be held back from reimbursement until the grant

recipient has completed a grant accomplishment report by the deadline and in the form prescribed by and satisfactory to the Lessard-Sams Outdoor Heritage Council. The commissioner shall provide notice of the grant program in the game and fish law summaries that are prepared under Minnesota Statutes, section 97A.051, subdivision 2.

**Subd. 6. Administration**

-0-

220,000

**(a) Contract Management**

\$175,000 in the second year is to the commissioner of natural resources for contract management duties assigned in this section. The commissioner shall provide a work program in the form specified by the Lessard-Sams Outdoor Heritage Council on the expenditure of this appropriation. No money may be expended prior to Lessard-Sams Outdoor Heritage Council approval of the work program.

**(b) Technical Evaluation Panel**

\$45,000 in the second year is to the commissioner of natural resources for a technical evaluation panel to conduct up to ten restoration evaluations under Minnesota Statutes, section 97A.056, subdivision 10.

**Subd. 7. Availability of Appropriation**

Money appropriated in this section may not be spent on activities unless they are directly related to and necessary for a specific appropriation and are specified in the accomplishment plan approved by the Lessard-Sams Outdoor Heritage Council. Money appropriated in this section must not be spent on indirect costs or other institutional overhead charges that are not directly related to and necessary for a specific appropriation. Unless otherwise provided, the amounts in this section are available until June 30, 2015, when projects must be completed and final accomplishments reported. Funds for restoration or enhancement are available until June 30, 2017, or four years after acquisition, whichever is later, in order to complete initial restoration or enhancement work. If a project receives federal funds, the time period of the appropriation is extended to equal the availability of federal funding. Funds appropriated for fee title acquisition of land may be used to restore, enhance, and provide for public use of the land acquired with the appropriation. Public use facilities must have a minimal impact on habitat in acquired lands. If the purchase price for a fee title acquisition funded with an appropriation in this article falls below the estimated purchase price contained in the approved accomplishment plan and no other acquisitions are listed in the approved accomplishment plan, the difference between the purchase price and the estimated purchase price is canceled and returned to the outdoor heritage fund.

**Subd. 8. Payment Conditions and Capital Equipment Expenditures**

All agreements referred to in this section must be administered on a reimbursement basis unless otherwise provided in this section. Notwithstanding Minnesota Statutes, section 16A.41, expenditures directly related to each appropriation's purpose made on or after July 1, 2012, or the date of accomplishment plan approval, whichever is later, are eligible for reimbursement unless otherwise provided in this section. Periodic reimbursement must be made upon receiving documentation that the items articulated in the accomplishment plan approved by the Lessard-Sams Outdoor Heritage Council have been achieved, including partial achievements as evidenced by progress reports approved by the Lessard-Sams Outdoor Heritage Council. Reasonable amounts may be advanced to projects to accommodate cash flow needs, support future management of acquired lands, or match a federal share. The advances must be approved as part of the accomplishment plan. Capital equipment expenditures for specific items in excess of \$10,000 must be itemized in and approved as part of the accomplishment plan.

**Sec. 3. [84.972] PRAIRIE GRASSLANDS PUBLIC GRAZING PROGRAM.**

The commissioner of natural resources shall establish a prairie grasslands public grazing program. The commissioner shall enter into cooperative farming agreements or lease agreements with livestock owners to annually graze prairie and grasslands administered by the commissioner where grazing will enhance wildlife habitat, including management of invasive species. The commissioner shall establish a target of at least 50,000 acres of prairie and grasslands to be enrolled in the prairie grasslands public grazing program. The commissioner shall maintain a list of lands grazed under the program describing the location, acreage, and years grazed. The program shall have a goal of being financially self-sufficient. Unless otherwise provided by law, revenues received under this section shall be deposited in the game and fish fund and are appropriated to the commissioner for purposes of the program.

Sec. 4. Minnesota Statutes 2010, section 97A.056, is amended by adding a subdivision to read:

**Subd. 12. Accomplishment plans.** It is a condition of acceptance of money appropriated from the outdoor heritage fund that the agency or entity using the appropriation submits an accomplishment plan and periodic accomplishment reports to the Lessard-Sams Outdoor Heritage Council in the form determined by the council. The accomplishment plan must identify the project manager responsible for expending the appropriation and the final product. The accomplishment plan must account for the use of the appropriation and outcomes of the expenditure in measures of wetlands, prairies, forests, and fish, game, and wildlife habitat restored, protected, and enhanced. The plan must include an evaluation of results. If lands are acquired by fee with money from the outdoor heritage fund, the accomplishment plan must include a hunting and fishing management plan for the lands acquired by fee. No money appropriated from the outdoor heritage fund may be expended unless the council has approved the pertinent accomplishment plan.

Sec. 5. Minnesota Statutes 2010, section 97A.056, is amended by adding a subdivision to read:

Subd. 13. **Project requirements.** (a) As a condition of accepting money appropriated from the outdoor heritage fund, an agency or entity receiving money from an appropriation must comply with this subdivision for any project funded in whole or in part with funds from the appropriation.

(b) All conservation easements acquired with money appropriated from the outdoor heritage fund must:

(1) be permanent;

(2) specify the parties to the easement;

(3) specify all of the provisions of an agreement that are permanent;

(4) specify the habitat types and location being protected;

(5) where appropriate for conservation or water protection outcomes, require the grantor to employ practices retaining water on the eased land as long as practicable;

(6) specify the responsibilities of the parties for habitat enhancement and restoration and the associated costs of these activities;

(7) be sent to the office of the Lessard-Sams Outdoor Heritage Council;

(8) include a long-term stewardship plan and identify the sources and amount of funding for monitoring and enforcing the easement agreement; and

(9) identify the parties responsible for monitoring and enforcing the easement agreement.

(c) For all restorations, a recipient must prepare and retain an ecological restoration and management plan that, to the degree practicable, is consistent with current conservation science and ecological goals for the restoration site. Consideration should be given to soil, geology, topography, and other relevant factors that would provide the best chance for long-term success and durability of the restoration. The plan must include the proposed timetable for implementing the restoration, including, but not limited to, site preparation, establishment of diverse plant species, maintenance, and additional enhancement to establish the restoration; identify long-term maintenance and management needs of the restoration and how the maintenance, management, and enhancement will be financed; and use current conservation science to achieve the best restoration.

(d) For new lands acquired, a recipient must prepare a restoration and management plan in compliance with paragraph (c), including identification of sufficient funding for implementation.

(e) To ensure public accountability for the use of public funds, a recipient must provide to the Lessard-Sams Outdoor Heritage Council documentation of the process used to select parcels acquired in fee or as permanent conservation easements and must provide the council with documentation of all related transaction costs, including, but not limited to, appraisals, legal fees, recording fees, commissions, other similar costs, and donations. This information must be provided for all parties involved in the transaction. The recipient must also report to the Lessard-Sams Outdoor Heritage Council any difference between the acquisition amount paid to the seller and the state-certified or state-reviewed appraisal, if a state-certified or state-reviewed appraisal was conducted. Acquisition data such as appraisals may remain private during negotiations but must ultimately be made public according to chapter 13.

(f) Except as otherwise provided in the appropriation, all restoration and enhancement projects funded with money appropriated from the outdoor heritage fund must be on land permanently protected by a conservation easement or public ownership or in public waters as defined in section 103G.005, subdivision 15.

(g) To the extent an appropriation is used to acquire an interest in real property, a recipient of an appropriation from the outdoor heritage fund must provide to the Lessard-Sams Outdoor Heritage Council and the commissioner of management and budget an analysis of increased operation and maintenance costs likely to be incurred by public entities as a result of the acquisition and of how the costs are to be paid.

(h) A recipient of money appropriated from the outdoor heritage fund must give consideration to Conservation Corps Minnesota for possible use of the corps' services to contract for restoration and enhancement services.

(i) A recipient of money appropriated from the outdoor heritage fund must erect signage according to Laws 2009, chapter 172, article 5, section 10.

Sec. 6. Minnesota Statutes 2010, section 97A.056, is amended by adding a subdivision to read:

Subd. 14. **Purchase of recycled and recyclable materials.** A political subdivision, public or private corporation, or other entity that receives money appropriated from the outdoor heritage fund must use the money in compliance with sections 16B.121, regarding purchase of recycled, repairable, and durable materials, and 16B.122, regarding purchase and use of paper stock and printing.

Sec. 7. Minnesota Statutes 2010, section 97A.056, is amended by adding a subdivision to read:

Subd. 15. **Land acquisition restrictions.** (a) An interest in real property, including, but not limited to, an easement or fee title, that is acquired with money appropriated from the outdoor heritage fund must be used in perpetuity or for the specific term of an easement interest for the purpose for which the appropriation was made. The ownership of the interest in real property transfers to the state if: (1) the holder of the interest in real property fails to comply with the terms and conditions of the grant agreement or accomplishment plan; or (2) restrictions are placed on the land that preclude its use for the intended purpose as specified in the appropriation.

(b) A recipient of funding that acquires an interest in real property subject to this subdivision may not alter the intended use of the interest in real property or convey any interest in the real property acquired with the appropriation without the prior review and approval of the Lessard-Sams Outdoor Heritage Council or its successor. The council shall notify the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over the outdoor heritage fund at least 15 business days before approval under this paragraph. The council shall establish procedures to review requests from recipients to alter the use of or convey an interest in real property. These procedures shall allow for the replacement of the interest in real property with another interest in real property meeting the following criteria:

(1) the interest must be at least equal in fair market value, as certified by the commissioner of natural resources, to the interest being replaced; and

(2) the interest must be in a reasonably equivalent location and have a reasonably equivalent useful conservation purpose compared to the interest being replaced, taking into consideration all effects from fragmentation of the whole habitat.

(c) A recipient of funding who acquires an interest in real property under paragraph (a) must separately record a notice of funding restrictions in the appropriate local government office where the conveyance of the interest in real property is filed. The notice of funding agreement must contain:

(1) a legal description of the interest in real property covered by the funding agreement;

(2) a reference to the underlying funding agreement;

(3) a reference to this section; and

(4) the following statement: "This interest in real property shall be administered in accordance with the terms, conditions, and purposes of the grant agreement controlling the acquisition of the property. The interest in real property, or any portion of the interest in real property, shall not be sold, transferred, pledged, or otherwise disposed of or further encumbered without obtaining the prior written approval of the Lessard-Sams Outdoor Heritage Council or its successor. The ownership of the interest in real property transfers to the state if: (1) the holder of the interest in real property fails to comply with the terms and conditions of the grant agreement or accomplishment plan; or (2) restrictions are placed on the land that preclude its use for the intended purpose as specified in the appropriation."

Sec. 8. Minnesota Statutes 2010, section 97A.056, is amended by adding a subdivision to read:

Subd. 16. **Real property interest report.** (a) By December 1 each year, a recipient of money appropriated from the outdoor heritage fund that is used for the acquisition of an interest in real property, including, but not limited to, an easement or fee title, must submit annual reports on the status of the real property to the Lessard-Sams Outdoor Heritage Council or its successor in a form determined by the council. If lands are acquired by fee with money from the outdoor heritage fund, the real property interest report must include a verification of the status of the hunting and fishing management plan for the lands acquired by fee. The responsibility for reporting under this subdivision may be transferred by the recipient of the appropriation to another person or entity that holds the interest in the real property. To complete the transfer of reporting responsibility, the recipient of the appropriation must:

(1) inform the person to whom the responsibility is transferred of that person's reporting responsibility;

(2) inform the person to whom the responsibility is transferred of the property restrictions under subdivision 15; and

(3) provide written notice to the council of the transfer of reporting responsibility, including contact information for the person to whom the responsibility is transferred.

(b) After the transfer, the person or entity that holds the interest in the real property is responsible for reporting requirements under this subdivision.

Sec. 9. Minnesota Statutes 2010, section 97A.056, is amended by adding a subdivision to read:

Subd. 17. **Easement monitoring and enforcement requirements.** Money appropriated from the outdoor heritage fund for easement monitoring and enforcement may be spent only on activities included in an easement monitoring and enforcement plan contained within the accomplishment plan. Money received for monitoring and enforcement, including earnings on the money received, shall be kept in a monitoring and enforcement fund held by the organization and is appropriated for monitoring and enforcing conservation easements in the state. Within 120 days after the close of the entity's fiscal year, an entity receiving appropriations for easement monitoring and enforcement must provide an annual financial report to the Lessard-Sams Outdoor Heritage Council on the easement monitoring and enforcement fund as specified in the accomplishment plan. Money appropriated from the outdoor heritage fund for monitoring and enforcement of easements and earnings on the money appropriated shall revert to the state if:

(1) the easement transfers to the state under subdivision 15;

(2) the holder of the easement fails to file an annual report and then fails to cure that default within 30 days of notification of the default by the state; or

(3) the holder of the easement fails to comply with the terms of the monitoring and enforcement plan contained within the accomplishment plan and fails to cure that default within 90 days of notification of the default by the state.

Sec. 10. Minnesota Statutes 2010, section 97A.056, is amended by adding a subdivision to read:

Subd. 18. **Successor organizations.** The Lessard-Sams Outdoor Heritage Council may approve the continuation of a project with an organization that has adopted a new name. Continuation of a project with an organization that has undergone a significant change in mission, structure, or purpose requires:

(1) notice to the chairs of the legislative committees and divisions with jurisdiction over the outdoor heritage fund; and

(2) presentation by the council of proposed legislation either ratifying or rejecting continued involvement with the new organization.

Sec. 11. Minnesota Statutes 2010, section 97A.056, is amended by adding a subdivision to read:

Subd. 19. **Fee title acquisitions; open to taking fish and game.** (a) Lands acquired by fee with money appropriated from the outdoor heritage fund that are held by the state must be open to the public taking of fish and game during the open season, unless otherwise provided by state law.

(b) Lands acquired by fee with money appropriated from the outdoor heritage fund that are held by the United States Fish and Wildlife Service must be open to the public taking of fish and game during the open season according to the National Wildlife Refuge System Improvement Act, United States Code, title 16, section 668dd, et seq.

(c) Except as provided in paragraph (b), lands acquired by fee with money appropriated from the outdoor heritage fund that are held by a nonstate entity must be open to the public taking of fish and game during the open season, unless otherwise prescribed by the commissioner of natural resources.

**EFFECTIVE DATE.** This section is effective retroactively to July 1, 2009.

Sec. 12. Minnesota Statutes 2010, section 97A.056, is amended by adding a subdivision to read:

Subd. 20. **Pasture land.** (a) For the purposes of this subdivision, "pasture" means any prairie or grassland that had been actively grazed anytime during the ten-year period prior to acquisition and that is acquired in fee for wildlife management area purposes under section 86A.05, subdivision 8.

(b) A recipient of money appropriated from the outdoor heritage fund that is used to acquire, in fee, more than 20 acres of pasture, as defined in paragraph (a), or other existing or restored prairie or grassland where grazing will be used as a wildlife habitat management tool shall:

(1) maintain any existing fencing on the land consistent with a grazing management program;

(2) install new perimeter fencing using funds from the outdoor heritage fund appropriation, unless perimeter fencing capable of containing livestock for grazing is already present; and

(3) enter into an agreement or agreements with a livestock owner or owners to provide sufficient grazing of the pasture to enhance wildlife habitat, including management of invasive species.

(c) The commissioner must annually report the location, acreage, and years grazed for land subject to this subdivision.

Sec. 13. Laws 2011, First Special Session chapter 6, article 1, section 2, subdivision 9, is amended to read:

**Subd. 9. Project Requirements**

(a) As a condition of accepting an appropriation made under this section, an agency or entity receiving an appropriation must comply with this subdivision for any project funded in whole or in part with funds from the appropriation.

(b) All conservation easements acquired with money appropriated under this section must: (1) be permanent; (2) specify the parties to the easement; (3) specify all of the provisions of an agreement that are permanent; (4) specify the habitat types and location being protected; (5) where appropriate for conservation or water protection outcomes, require the grantor to employ practices retaining water on the eased land as long as practicable; (6) specify the responsibilities of the parties for habitat enhancement and restoration and the associated costs of these activities; (7) be sent to the office of the Lessard-Sams Outdoor Heritage Council; (8) include a long-term stewardship plan and identify the sources and amount of funding for monitoring and enforcing the easement agreement; and (9) identify the parties responsible for monitoring and enforcing the easement agreement.

(c) For all restorations, a recipient must prepare and retain an ecological restoration and management plan that, to the degree practicable, is consistent with current conservation science and ecological goals for the restoration site. Consideration should be given to soil, geology, topography, and other relevant factors that would provide the best chance for long-term success and durability of the restoration projects. The plan must include the proposed timetable for implementing the restoration, including, but not limited to, site preparation, establishment of diverse plant species, maintenance, and additional enhancement to establish the restoration; identify long-term maintenance and management needs of the restoration and how the maintenance, management, and enhancement will be financed; and use current conservation science to achieve the best restoration.

(d) For new lands acquired, a recipient must prepare a restoration and management plan in compliance with paragraph (c), including identification of sufficient funding for implementation.

(e) To ensure public accountability for the use of public funds, a recipient must provide to the Lessard-Sams Outdoor Heritage Council documentation of the process used to select parcels acquired in fee or as permanent conservation easements and must provide the council with documentation of all related transaction

costs, including, but not limited to, appraisals, legal fees, recording fees, commissions, other similar costs, and donations. This information must be provided for all parties involved in the transaction. The recipient must also report to the Lessard-Sams Outdoor Heritage Council any difference between the acquisition amount paid to the seller and the state-certified or state-reviewed appraisal, if a state-certified or state-reviewed appraisal was conducted. Acquisition data such as appraisals may remain private during negotiations but must ultimately be made public according to Minnesota Statutes, chapter 13.

(f) Except as otherwise provided in this section, all restoration and enhancement projects funded with money appropriated under this section must be on land permanently protected by a conservation easement or public ownership or in public waters as defined in Minnesota Statutes, section 103G.005, subdivision 15.

(g) To the extent an appropriation is used to acquire an interest in real property, a recipient of an appropriation under this section must provide to the Lessard-Sams Outdoor Heritage Council and the commissioner of management and budget an analysis of increased operations and maintenance costs likely to be incurred by public entities as a result of the acquisition and of how these costs are to be paid.

(h) A recipient of money from an appropriation under this section must give consideration to ~~and make timely written contact with~~ Conservation Corps Minnesota for possible use of the corps' services to contract for restoration and enhancement services. ~~A copy of the written contact must be filed with the Lessard Sams Outdoor Heritage Council within 15 days of execution.~~

(i) A recipient of money under this section must erect signage according to Laws 2009, chapter 172, article 5, section 10.

Sec. 14. **LEGACY FUNDING REQUIREMENTS APPLY.**

Each direct recipient of money appropriated in this article, as well as each recipient of a grant awarded pursuant to this article, must satisfy all reporting and other requirements incumbent upon legacy funding recipients as provided in Laws 2011, First Special Session chapter 6, article 5.

ARTICLE 2  
CLEAN WATER FUND

Section 1. Minnesota Statutes 2011 Supplement, section 114D.30, subdivision 4, is amended to read:

Subd. 4. **Terms; compensation; removal.** The terms of members representing the state agencies and the Metropolitan Council are four years and are coterminous with the governor. The terms of other nonlegislative members of the council shall be as provided in section 15.059, subdivision 2. Members may serve until their successors are appointed and qualify. Compensation and removal of nonlegislative council members is as provided in section 15.059, subdivisions 3 and 4. Compensation of legislative members is as determined by the appointing authority. The Pollution Control Agency may reimburse legislative members for expenses. A vacancy on the council may be filled by the appointing authority provided in subdivision 1 for the remainder of the unexpired term.

Sec. 2. Laws 2009, chapter 172, article 2, section 4, as amended by Laws 2010, chapter 361, article 2, section 2, and Laws 2011, First Special Session chapter 6, article 2, section 23, is amended to read:

Sec. 4. **POLLUTION CONTROL AGENCY** **\$24,076,000** **\$27,630,000**

(a) \$9,000,000 the first year and \$9,000,000 the second year are to develop total maximum daily load (TMDL) studies and TMDL implementation plans for waters listed on the United States Environmental Protection Agency approved impaired waters list in accordance with Minnesota Statutes, chapter 114D. The agency shall complete an average of ten percent of the TMDLs each year over the biennium. Of this amount, \$348,000 the first year is to retest the comprehensive assessment of the biological conditions of the lower Minnesota River and its tributaries within the Lower Minnesota River Major Watershed, as previously assessed from 1976 to 1992 under the Minnesota River Assessment Project (MRAP). The assessment must include the same fish species sampling at the same 116 locations and the same macroinvertebrate sampling at the same 41 locations as the MRAP assessment. The assessment must:

- (1) include an analysis of the findings; and
- (2) identify factors that limit aquatic life in the Minnesota River.

Of this amount, \$250,000 the first year is for a pilot project for the development of total maximum daily load (TMDL) studies conducted on a watershed basis within the Buffalo River watershed in order to protect, enhance, and restore water quality in lakes, rivers, and streams. The pilot project shall include all necessary field work to develop TMDL studies for all impaired subwatersheds within the Buffalo River watershed and provide information necessary to complete reports for most of the remaining watersheds, including analysis of water quality data, identification of sources of water quality degradation and stressors, load allocation development, development of reports that provide protection plans for subwatersheds that meet water quality standards, and development of reports that provide information necessary to complete TMDL studies for subwatersheds that do not meet water quality standards, but are not listed as impaired.

(b) \$500,000 the first year is for development of an enhanced TMDL database to manage and track progress. Of this amount, \$63,000 the first year is to promulgate rules. By November 1, 2010, the commissioner shall submit a report to the chairs of the house of representatives and senate committees with jurisdiction over environment and natural resources finance on the outcomes achieved with this appropriation.

(c) \$1,500,000 the first year and \$3,169,000 the second year are for grants under Minnesota Statutes, section 116.195, to political subdivisions for up to 50 percent of the costs to predesign, design,

and implement capital projects that use storm water or treated municipal wastewater instead of groundwater from drinking water aquifers, in order to demonstrate the beneficial use of wastewater or storm water, including the conservation and protection of water resources. ~~Of Notwithstanding Minnesota Statutes, section 116.195,~~ of this amount, \$1,000,000 the first year is for grants a direct grant to an ethanol plants plant in Stevens County that are is within one and one-half miles of a city for improvements that use storm water or reuse greater than 300,000 gallons of wastewater per day a pilot project to demonstrate the use of innovative technology that utilizes effluent from a commercial water-treatment system in order to reduce the use of groundwater. This appropriation is available until June 30, 2016.

(d) \$1,125,000 the first year and \$1,125,000 the second year are for groundwater assessment and drinking water protection to include:

(1) the installation and sampling of at least 30 new monitoring wells;

(2) the analysis of samples from at least 40 shallow monitoring wells each year for the presence of endocrine disrupting compounds; and

(3) the completion of at least four to five groundwater models for TMDL and watershed plans.

(e) \$2,500,000 the first year is for the clean water partnership program. Priority shall be given to projects preventing impairments and degradation of lakes, rivers, streams, and groundwater in accordance with Minnesota Statutes, section 114D.20, subdivision 2, clause (4). Any balance remaining in the first year does not cancel and is available for the second year.

(f) \$896,000 the first year is to establish a network of water monitoring sites, to include at least 20 additional sites, in public waters adjacent to wastewater treatment facilities across the state to assess levels of endocrine-disrupting compounds, antibiotic compounds, and pharmaceuticals as required in this article. The data must be placed on the agency's Web site.

(g) \$155,000 the first year is to provide notification of the potential for coal tar contamination, establish a storm water pond inventory schedule, and develop best management practices for treating and cleaning up contaminated sediments as required in this article. \$490,000 the second year is to provide grants to local units of government for up to 50 percent of the costs to implement best management practices to treat or clean up contaminated sediments in storm water ponds and other waters as defined under this article. Local governments must have adopted an ordinance for the

restricted use of undiluted coal tar sealants in order to be eligible for a grant, unless a statewide restriction has been implemented. A grant awarded under this paragraph must not exceed \$100,000. Up to \$145,000 of the appropriation in the second year may be used to complete work required under section 28, paragraph (c).

(h) \$350,000 the first year and \$600,000 the second year are for a restoration project in the lower St. Louis River and Duluth harbor in order to improve water quality. This appropriation must be matched by nonstate money at a rate of at least \$2 for every \$1 of state money.

(i) \$150,000 the first year and \$196,000 the second year are for grants to the Red River Watershed Management Board to enhance and expand existing river watch activities in the Red River of the North. The Red River Watershed Management Board shall provide a report that includes formal evaluation results from the river watch program to the commissioners of education and the Pollution Control Agency and to the legislative natural resources finance and policy committees and K-12 finance and policy committees by February 15, 2011.

(j) \$200,000 the first year and \$300,000 the second year are for coordination with the state of Wisconsin and the National Park Service on comprehensive water monitoring and phosphorus reduction activities in the Lake St. Croix portion of the St. Croix River. The Pollution Control Agency shall work with the St. Croix Basin Water Resources Planning Team and the St. Croix River Association in implementing the water monitoring and phosphorus reduction activities. This appropriation is available to the extent matched by nonstate sources. Money not matched by November 15, 2010, cancels for this purpose and is available for the purposes of paragraph (a).

(k) \$7,500,000 the first year and \$7,500,000 the second year are for completion of 20 percent of the needed statewide assessments of surface water quality and trends. Of this amount, \$175,000 the first year and \$200,000 the second year are for monitoring and analyzing endocrine disruptors in surface waters.

(l) \$100,000 the first year and \$150,000 the second year are for civic engagement in TMDL development. The agency shall develop a plan for expenditures under this paragraph. The agency shall give consideration to civic engagement proposals from basin or sub-basin organizations, including the Mississippi Headwaters Board, the Minnesota River Joint Powers Board, Area II Minnesota River Basin Projects, and the Red River Basin Commission. By November 15, 2009, the plan shall be submitted to the house and senate chairs and ranking minority members of the environmental finance divisions.

(m) \$5,000,000 the second year is for groundwater protection or prevention of groundwater degradation activities. By January 15, 2010, the commissioner, in consultation with the commissioner of natural resources, the Board of Water and Soil Resources, and other agencies, shall submit a report to the chairs of the house of representatives and senate committees with jurisdiction over the clean water fund on the intended use of these funds. The legislature must approve expenditure of these funds by law.

Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered on or before June 30, 2011, as grants or contracts in this section are available until June 30, 2013.

Sec. 3. Laws 2011, First Special Session chapter 6, article 2, section 7, is amended to read:

|  |                     |                                |
|--|---------------------|--------------------------------|
| Sec. 7. <b>BOARD OF WATER AND SOIL RESOURCES</b> | <b>\$27,534,000</b> | <del><b>\$27,534,000</b></del> |
|  |                     | <u>31,734,000</u>              |

(a) \$13,750,000 the first year and ~~\$13,750,000~~ \$15,350,000 the second year are for pollution reduction and restoration grants to local government units and joint powers organizations of local government units to protect surface water and drinking water; to keep water on the land; to protect, enhance, and restore water quality in lakes, rivers, and streams; and to protect groundwater and drinking water, including feedlot water quality and subsurface sewage treatment system (SSTS) projects and stream bank, stream channel, and shoreline restoration projects. The projects must be of long-lasting public benefit, include a match, and be consistent with TMDL implementation plans or local water management plans.

(b) \$3,000,000 the first year and ~~\$3,000,000~~ \$3,600,000 the second year are for targeted local resource protection and enhancement grants. The board shall give priority consideration to projects and practices that complement, supplement, or exceed current state standards for protection, enhancement, and restoration of water quality in lakes, rivers, and streams or that protect groundwater from degradation. Of this amount, at least \$1,500,000 each year is for county SSTS implementation.

(c) \$900,000 the first year and ~~\$900,000~~ \$1,200,000 the second year are to provide state oversight and accountability, evaluate results, and develop an electronic system to measure and track the value of conservation program implementation by local governments, including submission to the legislature by March 1 each year an annual report prepared by the board, in consultation with the commissioners of natural resources, health, agriculture, and the Pollution Control Agency, detailing the recipients and projects funded under this section. The board shall require grantees to specify the outcomes that will be achieved by the grants prior to any grant awards.

(d) \$1,000,000 the first year and ~~\$1,000,000~~ \$1,700,000 the second year are for technical assistance and grants for the conservation drainage program in consultation with the Drainage Work Group, created under Minnesota Statutes, section 103B.101, subdivision 13, that consists of projects to retrofit ~~existing or supplement~~ drainage systems with water quality improvement practices, evaluate outcomes, and provide outreach to landowners, public drainage authorities, drainage engineers and contractors, and others. The board shall coordinate practice standards with the Natural Resources Conservation Service of the United States Department of Agriculture and seek to leverage federal funds as part of conservation drainage program implementation.

(e) \$6,000,000 the first year and \$6,000,000 the second year are to purchase and restore permanent conservation easements on riparian buffers adjacent to public waters, excluding wetlands, to keep water on the land in order to decrease sediment, pollutant, and nutrient transport; reduce hydrologic impacts to surface waters; and increase infiltration for groundwater recharge. The riparian buffers must be at least 50 feet unless there is a natural impediment, a road, or other impediment beyond the control of the landowner. This appropriation may be used for restoration of riparian buffers protected by easements purchased with this appropriation and for stream bank restorations when the riparian buffers have been restored.

(f) \$1,300,000 the first year and ~~\$1,300,000~~ \$2,300,000 the second year are for permanent conservation easements on wellhead protection areas under Minnesota Statutes, section 103F.515, subdivision 2, paragraph (d). Priority must be placed on land that is located where the vulnerability of the drinking water supply is designated as high or very high by the commissioner of health. The board shall coordinate with the United States Geological Survey, the commissioners of health and natural resources, and local communities contained in the Decorah and St. Lawrence Edge areas of Winona, Goodhue, Olmsted, and Wabasha Counties to obtain easements in identified areas as having the most vulnerability to groundwater contamination.

(g) \$1,500,000 the first year and \$1,500,000 the second year are for community partners grants to local units of government for: (1) structural or vegetative management practices that reduce storm water runoff from developed or disturbed lands to reduce the movement of sediment, nutrients, and pollutants for restoration, protection, or enhancement of water quality in lakes, rivers, and streams and to protect groundwater and drinking water; and (2) installation of proven and effective water retention practices including, but not limited to, rain gardens and other vegetated infiltration basins and sediment control basins in order to keep water on the land. The projects must be of long-lasting public

benefit, include a local match, and be consistent with TMDL implementation plans or local water management plans. Local government unit staff and administration costs may be used as a match.

(h) \$84,000 the first year and \$84,000 the second year are for a technical evaluation panel to conduct up to ten restoration evaluations under Minnesota Statutes, section 114D.50, subdivision 6.

(i) The board shall contract for services with Conservation Corps Minnesota for restoration, maintenance, and other activities under this section for \$500,000 the first year and \$500,000 the second year.

(j) The board may shift grant or cost-share funds in this section and may adjust the technical and administrative assistance portion of the funds to leverage federal or other nonstate funds or to address oversight responsibilities or high-priority needs identified in local water management plans.

(k) The appropriations in this section are available until June 30, 2016.

Sec. 4. **AQUATIC INVASIVE SPECIES; APPROPRIATION.**

(a) \$2,200,000 in fiscal year 2013 is appropriated from the clean water fund to the Board of Regents of the University of Minnesota for research, in consultation with other institutions of higher learning in Minnesota, on aquatic invasive species that threaten or have the potential to threaten the water quality of the state's lakes, rivers, and streams. With the approval of the Board of Regents of the University of Minnesota, the appropriation shall fund the following within the College of Food, Agricultural and Natural Resource Sciences' Department of Fisheries, Wildlife and Conservation Biology:

(1) three research assistant professors with three different focus areas, to include environmental DNA, zebra mussels, and fish ecology;

(2) one fish care technician;

(3) five graduate students within the Department of Fisheries, Wildlife and Conservation Biology; and

(4) up to \$1,050,000 in equipment necessary for the research activities under this paragraph.

(b) This is a onetime appropriation and is available until June 30, 2018.

Sec. 5. **LEGACY FUNDING REQUIREMENTS APPLY.**

All appropriations in this article are onetime and are subject to the requirements and availability provisions provided under Laws 2011, First Special Session chapter 6, articles 2 and 5. Each direct recipient of money appropriated in this article, as well as each recipient of a grant awarded pursuant to this article, must satisfy all reporting and other requirements incumbent upon legacy funding recipients as provided in Laws 2011, First Special Session chapter 6, articles 2 and 5.

ARTICLE 3  
PARKS AND TRAILS FUND

Section 1. Laws 2009, chapter 172, article 3, section 3, is amended to read:

|                                     |                     |                     |
|-------------------------------------|---------------------|---------------------|
| Sec. 3. <b>METROPOLITAN COUNCIL</b> | <b>\$12,641,000</b> | <b>\$15,140,000</b> |
|-------------------------------------|---------------------|---------------------|

(a) \$12,641,000 the first year and \$15,140,000 the second year are from the parks and trails fund to be distributed as required under new Minnesota Statutes, section 85.535, subdivision 3, except that of this amount, \$40,000 the first year is for a grant to Hennepin County to plant trees along the Victory Memorial Parkway. For acquisition of an interest in real property, appropriations under this section are available until June 30, 2013.

(b) The Metropolitan Council shall submit a report on the expenditure and use of money appropriated under this section to the legislature as provided in Minnesota Statutes, section 3.195, by March 1 of each year. The report must detail the outcomes in terms of additional use of parks and trails resources, user satisfaction surveys, and other appropriate outcomes.

(c) Grant agreements entered into by the Metropolitan Council and recipients of money appropriated under this section shall ensure that the funds are used to supplement and not substitute for traditional sources of funding.

(d) The implementing agencies receiving appropriations under this section shall give consideration to contracting with the Minnesota Conservation Corps for contract restoration, maintenance, and other activities.

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

ARTICLE 4  
ARTS AND CULTURAL HERITAGE FUND

Section 1. Minnesota Statutes 2010, section 16B.98, subdivision 5, is amended to read:

Subd. 5. **Creation and validity of grant agreements.** (a) A grant agreement is not valid and the state is not bound by the grant unless:

- (1) the grant has been executed by the head of the agency or a delegate who is party to the grant; ~~and~~
- (2) the accounting system shows an encumbrance for the amount of the grant in accordance with policy approved by the commissioner; ~~and~~ and
- (3) the grant agreement includes an effective date that references either section 16C.05, subdivision 2, or 16B.98, subdivisions 5 and 7, as determined by the granting agency.

(b) The combined grant agreement and amendments must not exceed five years without specific, written approval by the commissioner according to established policy, procedures, and standards, or unless the commissioner determines that a longer duration is in the best interest of the state.

(c) A fully executed copy of the grant agreement with all amendments and other required records relating to the grant must be kept on file at the granting agency for a time equal to that required of grantees in subdivision 8.

(d) Grant agreements must comply with policies established by the commissioner for minimum grant agreement standards and practices.

(e) The attorney general may periodically review and evaluate a sample of state agency grants to ensure compliance with applicable laws.

Sec. 2. Minnesota Statutes 2010, section 16B.98, subdivision 7, is amended to read:

Subd. 7. **Grant payments.** Payments to the grantee may not be issued until the grant agreement is fully executed. Encumbrances for grants issued by June 30 may be certified for a period of one year beyond the year in which the funds were originally appropriated as provided by section 16A.28, subdivision 6.

Sec. 3. Minnesota Statutes 2010, section 116U.26, is amended to read:

#### **116U.26 FILM PRODUCTION JOBS PROGRAM.**

(a) The film production jobs program is created. The program shall be operated by the Minnesota Film and TV Board with administrative oversight and control by the ~~director of Explore Minnesota Tourism~~ commissioner of administration. The program shall make payment to producers of feature films, national television or Internet programs, documentaries, music videos, and commercials that directly create new film jobs in Minnesota. To be eligible for a payment, a producer must submit documentation to the Minnesota Film and TV Board of expenditures for production costs incurred in Minnesota that are directly attributable to the production in Minnesota of a film product.

The Minnesota Film and TV Board shall make recommendations to the ~~director of Explore Minnesota Tourism~~ commissioner of administration about program payment, but the ~~director~~ commissioner has the authority to make the final determination on payments. The ~~director's~~ commissioner's determination must be based on proper documentation of eligible production costs submitted for payments. No more than five percent of the funds appropriated for the program in any year may be expended for administration.

(b) For the purposes of this section:

(1) "production costs" means the cost of the following:

(i) a story and scenario to be used for a film;

(ii) salaries of talent, management, and labor, including payments to personal services corporations for the services of a performing artist;

(iii) set construction and operations, wardrobe, accessories, and related services;

(iv) photography, sound synchronization, lighting, and related services;

(v) editing and related services;

(vi) rental of facilities and equipment; or

(vii) other direct costs of producing the film in accordance with generally accepted entertainment industry practice; and

(2) "film" means a feature film, television or Internet show, documentary, music video, or television commercial, whether on film, video, or digital media. Film does not include news, current events, public programming, or a program that includes weather or market reports; a talk show; a production with respect to a questionnaire or contest; a sports event or sports activity; a gala presentation or awards show; a finished production that solicits funds; or a production for which the production company is required under United States Code, title 18, section 2257, to maintain records with respect to a performer portrayed in a single-media or multimedia program.

(c) Notwithstanding any other law to the contrary, the Minnesota Film and TV Board may make reimbursements of: (1) up to 20 percent of film production costs for films that locate production outside the metropolitan area, as defined in section 473.121, subdivision 2, or that incur production costs in excess of \$5,000,000 in the metropolitan area within a 12-month period; or (2) up to 15 percent of film production costs for films that incur production costs of \$5,000,000 or less in the metropolitan area within a 12-month period.

Sec. 4. Laws 2011, First Special Session chapter 6, article 4, section 2, subdivision 5, is amended to read:

|  |            |                       |
|--|------------|-----------------------|
| Subd. 5. <b>Minnesota Historical Society</b> | 12,050,000 | <del>12,050,000</del> |
|  |            | <u>12,950,000</u>     |

These amounts are appropriated to the governing board of the Minnesota Historical Society to preserve and enhance access to Minnesota's history and its cultural and historical resources. Grant agreements entered into by the Minnesota Historical Society and other recipients of appropriations in this subdivision shall ensure that these funds are used to supplement and not substitute for traditional sources of funding. Funds directly appropriated to the Minnesota Historical Society shall be used to supplement, and not substitute for, traditional sources of funding. Notwithstanding Minnesota Statutes, section 16A.28, for historic preservation projects that improve historic structures, the amounts are available until June 30, 2015.

**Statewide Historic and Cultural Grants.** \$5,250,000 the first year and ~~\$5,250,000~~ \$5,450,000 the second year are for history programs and projects operated or conducted by or through local, county, regional, or other historical or cultural organizations; or for activities to preserve significant historic and cultural resources. Funds are to be distributed through a competitive grants process. The Minnesota Historical Society shall administer these funds using established grants mechanisms, with assistance from the advisory committee created under Laws 2009, chapter 172, article 4, section 2, subdivision 4, paragraph (b), item (ii).

**Programs.** \$4,800,000 the first year and ~~\$4,800,000~~ \$5,200,000 the second year are for programs and purposes related to the historical and cultural heritage of the state of Minnesota, conducted by the Minnesota Historical Society.

**History Partnerships.** \$1,500,000 the first year and ~~\$1,500,000~~ \$1,700,000 the second year are for partnerships involving multiple organizations, which may include the Minnesota Historical Society, to preserve and enhance access to Minnesota's history and cultural heritage in all regions of the state.

**Statewide Survey of Historical and Archaeological Sites.** \$250,000 the first year and \$250,000 the second year are for a contract or contracts to be let on a competitive basis to conduct statewide surveys of Minnesota's sites of historical, archaeological, and cultural significance. Results of this survey must be published in a searchable form, available to the public on a cost-free basis. The Minnesota Historical Society, the Office of the State Archaeologist, and the Indian Affairs Council shall each appoint a representative to an oversight board to select contractors and direct the conduct of these surveys. The oversight board shall consult with the Departments of Transportation and Natural Resources.

**Digital Library.** \$250,000 the first year and \$250,000 the second year are for a digital library project to preserve, digitize, and share Minnesota images, documents, and historical materials. The Minnesota Historical Society shall cooperate with the Minitex interlibrary loan system and shall jointly share this appropriation for these purposes.

**Commemoration Activities.** \$100,000 the second year is for activities that commemorate the sesquicentennial of the American Civil War and the Dakota Conflict, as recommended by the Civil War Commemoration Task Force established in Executive Order 11-15 (2011).

Sec. 5. **COMMEMORATION PROGRAMMING; APPROPRIATION.**

\$80,000 is appropriated in fiscal year 2013 from the arts and cultural heritage fund to the commissioner of administration for grants to public broadcasting organizations to develop programming that commemorates the sesquicentennial of the American Civil War and the Dakota Conflict. This appropriation is divided as follows:

(1) \$15,000 is for a grant to Minnesota Public Radio;

(2) \$15,000 is for a grant to the Association of Minnesota Public Educational Radio Stations; and

(3) \$50,000 is for a grant to Twin Cities Public Television to complete production of two historic documentaries and to develop an educational Web site that provides Minnesota educators and students with access to documentary content, video segments, and lesson guides. Notwithstanding Minnesota Statutes, section 129D.17, subdivision 2, paragraph (f), Twin Cities Public Television may spend a portion of this appropriation for travel and filming outside of Minnesota.

Sec. 6. **FILM PRODUCTION INCENTIVE PROGRAM; APPROPRIATION.**

\$600,000 is appropriated in fiscal year 2013 from the arts and cultural heritage fund to the commissioner of administration for a new film production incentive program. The commissioner, in consultation with the Independent Feature Project/Minnesota, shall reimburse film producers for eligible production costs incurred to

produce a film or documentary in Minnesota. Eligible production costs are expenditures incurred in Minnesota that are directly attributable to the production of a film or documentary in Minnesota. Eligible production costs include talent, management, labor, set construction and operation, wardrobe, sound synchronization, lighting, editing, rental facilities and equipment, and other direct costs of producing a film or documentary in accordance with generally accepted entertainment industry practices. A producer must agree, to the greatest extent possible, to procure all eligible production inputs in Minnesota. A producer must submit proper documentation of eligible production costs incurred to the commissioner of administration.

Sec. 7. **HISTORICAL RULEMAKING WEB SITE; APPROPRIATION.**

\$35,000 is appropriated in fiscal year 2013 from the arts and cultural heritage fund to the revisor of statutes to design and implement a Web site to provide the public searchable access to historical documents relating to state agency rulemaking. It is anticipated that the revisor of statutes will match this appropriation from carryforward funds and that the revisor will use the carryforward funds to design and implement a Web site that will provide the public searchable access to future state agency rulemaking documents.

Sec. 8. **LET'S GO FISHING; APPROPRIATION.**

\$100,000 in fiscal year 2013 is appropriated from the arts and cultural heritage fund to the commissioner of natural resources for a grant to Let's Go Fishing of Minnesota to provide community outreach to senior citizens, youth, and veterans and for the costs associated with establishing and recruiting new chapters in order to preserve Minnesota's cultural heritage of fishing. The grants must be matched with cash or in-kind contributions from nonstate sources.

Sec. 9. **LEGACY FUNDING REQUIREMENTS APPLY.**

All appropriations in this article are onetime and are subject to the requirements and availability provisions provided under Laws 2011, First Special Session chapter 6, articles 4 and 5. Each direct recipient of money appropriated in this article, as well as each recipient of a grant awarded pursuant to this article, must satisfy all reporting and other requirements incumbent upon legacy funding recipients as provided in Laws 2011, First Special Session chapter 6, articles 4 and 5.

Sec. 10. **GOVERNOR TO URGE PRESIDENTIAL PARDON OF CHASKA.**

The governor, in consultation with the chairs of the house and senate committees with jurisdiction over legacy funds, shall urge the President of the United States to pardon We-Chank-Wash-ta-don-pee, also known as Chaska, for alleged crimes stemming from the Dakota Conflict of 1862."

Delete the title and insert:

"A bill for an act relating to state government; appropriating money from the outdoor heritage fund, clean water fund, and arts and cultural heritage fund; modifying requirements for outdoor heritage fund appropriations; providing for public grazing program; changing provisions of grant management; changing control and oversight of the film production jobs program to the commissioner of administration; modifying prior appropriations; amending Minnesota Statutes 2010, sections 16B.98, subdivisions 5, 7; 97A.056, by adding subdivisions; 116U.26; Minnesota

Statutes 2011 Supplement, section 114D.30, subdivision 4; Laws 2009, chapter 172, article 2, section 4, as amended; article 3, section 3; Laws 2011, First Special Session chapter 6, article 1, section 2, subdivision 9; article 2, section 7; article 4, section 2, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 84."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Environment, Energy and Natural Resources Policy and Finance.

The report was adopted.

Westrom from the Committee on Civil Law to which was referred:

H. F. No. 2456, A bill for an act relating to human services; amending continuing care policy provisions; making changes to disability services and licensing provisions; establishing home and community-based services standards; establishing payment methodologies; requiring a report; providing rulemaking authority; amending Minnesota Statutes 2010, sections 245A.03, subdivision 2; 245A.041, by adding subdivisions; 245A.085; 245B.02, subdivision 10, by adding a subdivision; 245B.04, subdivisions 1, 2, 3; 245B.05, subdivision 1; 245B.06, subdivision 2; 245B.07, subdivisions 5, 9, 10, by adding a subdivision; 252.40; 252.41, subdivision 3; 252.42; 252.43; 252.44; 252.45; 252.451, subdivisions 2, 5; 252.46, subdivision 1a; 256B.0911, by adding a subdivision; 256B.0916, subdivision 2; 256B.092, subdivision 4; 256B.49, subdivision 17; 256B.4912; 256B.501, subdivision 4b; 256B.5013, subdivision 1; Minnesota Statutes 2011 Supplement, section 256B.49, subdivision 16a; proposing coding for new law in Minnesota Statutes, chapters 245A; 256B; proposing coding for new law as Minnesota Statutes, chapter 245D.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1  
STATEWIDE PROVIDER ENROLLMENT, PERFORMANCE  
STANDARDS, AND RATE-SETTING METHODOLOGY

Section 1. Minnesota Statutes 2010, section 245A.03, subdivision 2, is amended to read:

Subd. 2. **Exclusion from licensure.** (a) This chapter does not apply to:

(1) residential or nonresidential programs that are provided to a person by an individual who is related unless the residential program is a child foster care placement made by a local social services agency or a licensed child-placing agency, except as provided in subdivision 2a;

(2) nonresidential programs that are provided by an unrelated individual to persons from a single related family;

(3) residential or nonresidential programs that are provided to adults who do not abuse chemicals or who do not have a chemical dependency, a mental illness, a developmental disability, a functional impairment, or a physical disability;

(4) sheltered workshops or work activity programs that are certified by the commissioner of employment and economic development;

(5) programs operated by a public school for children 33 months or older;

(6) nonresidential programs primarily for children that provide care or supervision for periods of less than three hours a day while the child's parent or legal guardian is in the same building as the nonresidential program or present within another building that is directly contiguous to the building in which the nonresidential program is located;

(7) nursing homes or hospitals licensed by the commissioner of health except as specified under section 245A.02;

(8) board and lodge facilities licensed by the commissioner of health that do not provide children's residential services under Minnesota Rules, chapter 2960, mental health or chemical dependency treatment;

(9) homes providing programs for persons placed by a county or a licensed agency for legal adoption, unless the adoption is not completed within two years;

(10) programs licensed by the commissioner of corrections;

(11) recreation programs for children or adults that are operated or approved by a park and recreation board whose primary purpose is to provide social and recreational activities;

(12) programs operated by a school as defined in section 120A.22, subdivision 4; YMCA as defined in section 315.44; YWCA as defined in section 315.44; or JCC as defined in section 315.51, whose primary purpose is to provide child care or services to school-age children;

(13) Head Start nonresidential programs which operate for less than 45 days in each calendar year;

(14) noncertified boarding care homes unless they provide services for five or more persons whose primary diagnosis is mental illness or a developmental disability;

(15) programs for children such as scouting, boys clubs, girls clubs, and sports and art programs, and nonresidential programs for children provided for a cumulative total of less than 30 days in any 12-month period;

(16) residential programs for persons with mental illness, that are located in hospitals;

(17) the religious instruction of school-age children; Sabbath or Sunday schools; or the congregate care of children by a church, congregation, or religious society during the period used by the church, congregation, or religious society for its regular worship;

(18) camps licensed by the commissioner of health under Minnesota Rules, chapter 4630;

(19) mental health outpatient services for adults with mental illness or children with emotional disturbance;

(20) residential programs serving school-age children whose sole purpose is cultural or educational exchange, until the commissioner adopts appropriate rules;

~~(21) unrelated individuals who provide out of home respite care services to persons with developmental disabilities from a single related family for no more than 90 days in a 12-month period and the respite care services are for the temporary relief of the person's family or legal representative;~~

~~(22) respite care services provided as a home and community based service to a person with a developmental disability, in the person's primary residence;~~

~~(23)~~ (21) community support services programs as defined in section 245.462, subdivision 6, and family community support services as defined in section 245.4871, subdivision 17;

~~(24)~~ (22) the placement of a child by a birth parent or legal guardian in a preadoptive home for purposes of adoption as authorized by section 259.47;

~~(25)~~ (23) settings registered under chapter 144D which provide home care services licensed by the commissioner of health to fewer than seven adults;

~~(26)~~ (24) chemical dependency or substance abuse treatment activities of licensed professionals in private practice as defined in Minnesota Rules, part 9530.6405, subpart 15, when the treatment activities are not paid for by the consolidated chemical dependency treatment fund;

~~(27)~~ (25) consumer-directed community support service funded under the Medicaid waiver for persons with developmental disabilities when the individual who provided the service is:

(i) the same individual who is the direct payee of these specific waiver funds or paid by a fiscal agent, fiscal intermediary, or employer of record; and

(ii) not otherwise under the control of a residential or nonresidential program that is required to be licensed under this chapter when providing the service; or

~~(28)~~ (26) a program serving only children who are age 33 months or older, that is operated by a nonpublic school, for no more than four hours per day per child, with no more than 20 children at any one time, and that is accredited by:

(i) an accrediting agency that is formally recognized by the commissioner of education as a nonpublic school accrediting organization; or

(ii) an accrediting agency that requires background studies and that receives and investigates complaints about the services provided.

A program that asserts its exemption from licensure under item (ii) shall, upon request from the commissioner, provide the commissioner with documentation from the accrediting agency that verifies: that the accreditation is current; that the accrediting agency investigates complaints about services; and that the accrediting agency's standards require background studies on all people providing direct contact services.

(b) For purposes of paragraph (a), clause (6), a building is directly contiguous to a building in which a nonresidential program is located if it shares a common wall with the building in which the nonresidential program is located or is attached to that building by skyway, tunnel, atrium, or common roof.

(c) Except for the home and community-based services identified in section 245D.03, subdivision 1, nothing in this chapter shall be construed to require licensure for any services provided and funded according to an approved federal waiver plan where licensure is specifically identified as not being a condition for the services and funding.

Sec. 2. Minnesota Statutes 2010, section 245A.041, is amended by adding a subdivision to read:

**Subd. 3. Record retention; license holder requirements.** (a) A license holder must maintain and store records in a manner that will allow for review by the commissioner as identified in section 245A.04, subdivision 5. The following records must be maintained as specified and in accordance with applicable state or federal law, regulation, or rule:

(1) service recipient records, including verification of service delivery, must be maintained for a minimum of five years following discharge or termination of service;

(2) personnel records must be maintained for a minimum of five years following termination of employment; and

(3) program administration and financial records must be maintained for a minimum of five years from the date the program closes.

(b) A license holder who ceases to provide services must maintain all records related to the licensed program for five years from the date the program closes. The license holder must notify the commissioner of the location where the licensing records will be stored and the name of the person responsible for maintaining the stored records.

(c) If the ownership of a licensed program or service changes, the transferor, unless otherwise provided by law or written agreement with the transferee, is responsible for maintaining, preserving, and making available to the commissioner on demand the license records generated before the date of the transfer.

(d) In the event of a contested case, the license holder must retain records as required in paragraph (a) or until the final agency decision is issued and the conclusion of any related appeal, whichever period is longer.

Sec. 3. Minnesota Statutes 2010, section 245A.041, is amended by adding a subdivision to read:

Subd. 4. **Electronic records; license holder use.** A license holder's use of electronic record keeping or electronic signatures must meet the following requirements:

(1) use of electronic record keeping or electronic signatures does not alter the license holder's obligations under state or federal law, regulation, or rule;

(2) the license holder must ensure that the use of electronic record keeping does not limit the commissioner's access to records as specified under section 245A.04, subdivision 5;

(3) upon request, the license holder must assist the commissioner in accessing and copying all records, including encrypted records and electronic signatures; and

(4) the license holder must establish a mechanism or procedure to ensure that:

(i) the act of creating the electronic record or signature is attributable to the license holder, according to section 325L.09;

(ii) the electronic records and signatures are maintained in a form capable of being retained and accurately reproduced;

(iii) the commissioner has access to information that establishes the date and time that data and signatures were entered into the electronic record; and

(iv) the license holder's use of electronic record keeping or electronic signatures does not compromise the security of the records.

Sec. 4. **[245A.042] HOME AND COMMUNITY-BASED SERVICES; ADDITIONAL STANDARDS AND PROCEDURES.**

Subdivision 1. Standards governing the provision of home and community-based services. Residential and nonresidential programs for persons with disabilities or age 65 and older must obtain a license according to this chapter to provide home and community-based services defined in the federal waiver plans governed by United States Code, title 42, sections 1396 et seq., or the state's alternative care program according to section 256B.0913, and identified in section 245D.03, subdivision 1. As a condition of licensure, an applicant or license holder must demonstrate and maintain verification of compliance with:

(1) licensing requirements under this chapter and chapter 245D;

(2) applicable health care program requirements under Minnesota Rules, parts 9505.0170 to 9505.0475 and 9505.2160 to 9505.2245; and

(3) provider standards and qualifications identified in the federal waiver plans or the alternative care program.

Subd. 2. Implementation. Licensure of home and community-based services according to this section will be implemented upon authorization for the commissioner to collect fees according to section 245A.10, subdivisions 3 and 4, necessary to support licensing functions. License applications will be received on a phased in schedule as determined by the commissioner. Licenses will be issued on or after January 1, 2013, according to section 245A.04.

Sec. 5. Minnesota Statutes 2010, section 245A.085, is amended to read:

**245A.085 CONSOLIDATION OF HEARINGS; RECONSIDERATION.**

Hearings authorized under this chapter, chapter 245C, and sections 256.045, 256B.04, 626.556, and 626.557, shall be consolidated if feasible and in accordance with other applicable statutes and rules. Reconsideration under sections 245C.28; 626.556, subdivision 10i; and 626.557, subdivision 9d, shall also be consolidated if feasible.

Sec. 6. Minnesota Statutes 2010, section 245B.02, is amended by adding a subdivision to read:

Subd. 8a. Emergency. "Emergency" means any fires, severe weather, natural disasters, power failures, or any event that affects the ordinary daily operation of the program, including, but not limited to, events that threaten the immediate health and safety of a person receiving services and that require calling 911, emergency evacuation, moving to an emergency shelter, or temporary closure or relocation of the program to another facility or service site.

Sec. 7. Minnesota Statutes 2010, section 245B.02, subdivision 10, is amended to read:

Subd. 10. Incident. "Incident" means an occurrence that affects the ordinary provision of services to a person and includes any of the following:

(1) serious injury as determined by section 245.91, subdivision 6;

(2) a consumer's death;

(3) any medical ~~emergencies~~ emergency, unexpected serious ~~illnesses~~ illness, or ~~accidents~~ significant unexpected changes in an illness or medical condition, or the mental health status of a person that ~~require~~ requires calling 911 or a mental health mobile crisis intervention team, physician treatment, or hospitalization;

(4) a consumer's unauthorized or unexplained absence;

~~(5) any fires or other events that require the relocation of services for more than 24 hours, or circumstances involving a law enforcement agency or fire department related to the health, safety, or supervision of a consumer;~~

~~(6)~~ (5) physical aggression by a consumer against another consumer that causes physical pain, injury, or persistent emotional distress, including, but not limited to, hitting, slapping, kicking, scratching, pinching, biting, pushing, and spitting;

~~(7)~~ (6) any sexual activity between consumers involving force or coercion as defined under section 609.341, subdivisions 3 and 14; or

~~(8)~~ (7) a report of child or vulnerable adult maltreatment under section 626.556 or 626.557.

Sec. 8. Minnesota Statutes 2010, section 245B.04, subdivision 1, is amended to read:

Subdivision 1. **License holder's responsibility for consumers' rights.** The license holder must:

(1) provide the consumer or the consumer's legal representative a copy of the consumer's rights on the day that services are initiated and an explanation of the rights in subdivisions 2 and 3 within five working days of service initiation and annually thereafter. Reasonable accommodations shall be made by the license holder to provide this information in other formats as needed to facilitate understanding of the rights by the consumer and the consumer's legal representative, if any;

(2) document the consumer's or the consumer's legal representative's receipt of a copy of the rights and an explanation of the rights; and

(3) ensure the exercise and protection of the consumer's rights in the services provided by the license holder and authorized in the individual service plan.

Sec. 9. Minnesota Statutes 2010, section 245B.04, subdivision 2, is amended to read:

Subd. 2. **Service-related rights.** A consumer's service-related rights include the right to:

(1) refuse or terminate services and be informed of the consequences of refusing or terminating services;

(2) know, in advance, limits to the services available from the license holder;

(3) know conditions and terms governing the provision of services, including ~~those~~ the license holder's policies and procedures related to initiation and termination;

(4) know what the charges are for services, regardless of who will be paying for the services, and be notified upon request of changes in those charges;

(5) know, in advance, whether services are covered by insurance, government funding, or other sources, and be told of any charges the consumer or other private party may have to pay; and

(6) receive licensed services from individuals who are competent and trained, who have professional certification or licensure, as required, and who meet additional qualifications identified in the individual service plan.

Sec. 10. Minnesota Statutes 2010, section 245B.04, subdivision 3, is amended to read:

Subd. 3. **Protection-related rights.** (a) The consumer's protection-related rights include the right to:

(1) have personal, financial, services, and medical information kept private, and be advised of the license holder's policies and procedures regarding disclosure of such information;

(2) access records and recorded information about the person in accordance with applicable state and federal law, regulation, or rule;

(3) be free from maltreatment;

(4) be treated with courtesy and respect for the consumer's individuality, mode of communication, and culture, and receive respectful treatment of the consumer's property;

(5) reasonable observance of cultural and ethnic practice and religion;

(6) be free from bias and harassment regarding race, gender, age, disability, spirituality, and sexual orientation;

(7) be informed of and use the license holder's grievance policy and procedures, including knowing how to contact persons responsible for addressing problems and to appeal under section 256.045;

(8) know the name, telephone number, and the Web site, e-mail, and street addresses of protection and advocacy services, including the appropriate state-appointed ombudsman, and a brief description of how to file a complaint with these offices;

~~(5)~~ (9) voice grievances, know the contact persons responsible for addressing problems and how to contact those persons;

~~(6)~~ (10) any procedures for grievance or complaint resolution and the right to appeal under section 256.045;

~~(7)~~ (11) know the name and address of the state, county, or advocacy agency to contact for additional information or assistance;

~~(8)~~ (12) assert these rights personally, or have them asserted by the consumer's family or legal representative, without retaliation;

~~(9)~~ (13) give or withhold written informed consent to participate in any research or experimental treatment;

~~(10)~~ (14) have daily, private access to and use of a non-coin-operated telephone for local calls and long-distance calls made collect or paid for by the resident;

~~(11)~~ (15) receive and send, without interference, uncensored, unopened mail or electronic correspondence or communication;

~~(12)~~ (16) marital privacy for visits with the consumer's spouse and, if both are residents of the site, the right to share a bedroom and bed;

~~(13)~~ (17) associate with other persons of the consumer's choice;

~~(14)~~ (18) personal privacy; and

~~(15)~~ (19) engage in chosen activities.

(b) Restriction of a person's rights under paragraph (a), clauses (13) to (15), or this paragraph is allowed only if determined necessary to ensure the health, safety, and well-being of the person. Any restriction of these rights must be documented in the service plan for the person and must include the following information:

(1) the justification for the restriction based on an assessment of the person's vulnerability related to exercising the right without restriction;

(2) the objective measures set as conditions for ending the restriction;

(3) a schedule for reviewing the need for the restriction based on the conditions for ending the restriction to occur, at a minimum, every three months for persons who do not have a legal representative and annually for persons who do have a legal representative from the date of initial approval; and

(4) signed and dated approval for the restriction from the person, or the person's legal representative, if any. A restriction may be implemented only when the required approval has been obtained. Approval may be withdrawn at any time. If approval is withdrawn, the right must be immediately and fully restored.

Sec. 11. Minnesota Statutes 2010, section 245B.05, subdivision 1, is amended to read:

Subdivision 1. **Environment.** The license holder must:

(1) ensure that services are provided in a safe and hazard-free environment when the license holder is the owner, lessor, or tenant of the service site. All other license holders shall inform the consumer or the consumer's legal representative and case manager about any environmental safety concerns in writing;

~~(2) ~~lock doors~~ ensure that doors are locked or toxic substances or dangerous items normally accessible to persons served by the program are stored in locked cabinets, drawers, or containers only to protect the safety of consumers and not as a substitute for staff supervision or interactions with consumers. If doors are locked or toxic substances or dangerous items normally accessible to persons served by the program are stored in locked cabinets, drawers, or containers, the license holder must justify and document how this determination was made in consultation with the person or the person's legal representative and how access will otherwise be provided to the person and all other affected persons receiving services;~~

(3) follow procedures that minimize the consumer's health risk from communicable diseases; and

(4) maintain equipment, vehicles, supplies, and materials owned or leased by the license holder in good condition.

Sec. 12. Minnesota Statutes 2010, section 245B.07, subdivision 5, is amended to read:

Subd. 5. **Staff orientation.** (a) Within 60 days of hiring staff who provide direct service, the license holder must provide 30 hours of staff orientation. Direct care staff must complete 15 of the 30 hours orientation before providing any unsupervised direct service to a consumer. If the staff person has received orientation training from a license holder licensed under this chapter, or provides semi-independent living services only, the 15-hour requirement may be reduced to eight hours. The total orientation of 30 hours may be reduced to 15 hours if the staff person has previously received orientation training from a license holder licensed under this chapter.

(b) The 30 hours of orientation must combine supervised on-the-job training with ~~coverage~~ review of and instruction on the following material:

(1) review of the consumer's service plans and risk management plan to achieve an understanding of the consumer as a unique individual and staff responsibilities related to implementation of those plans;

(2) review and instruction on implementation of the license holder's policies and procedures, including their location and access;

(3) staff responsibilities related to emergency procedures;

(4) explanation of specific job functions, including implementing objectives from the consumer's individual service plan;

(5) explanation of responsibilities related to section 245A.65; sections 626.556 and 626.557, governing maltreatment reporting and service planning for children and vulnerable adults; and section 245.825, governing use of aversive and deprivation procedures;

(6) medication administration as it applies to the individual consumer, from a training curriculum developed by a health services professional described in section 245B.05, subdivision 5, and when the consumer meets the criteria of having overriding health care needs, then medication administration taught by a health services professional. Staff may administer medications only after they demonstrate the ability, as defined in the license holder's medication administration policy and procedures. Once a consumer with overriding health care needs is admitted, staff will be provided with remedial training as deemed necessary by the license holder and the health professional to meet the needs of that consumer.

For purposes of this section, overriding health care needs means a health care condition that affects the service options available to the consumer because the condition requires:

(i) specialized or intensive medical or nursing supervision; and

(ii) nonmedical service providers to adapt their services to accommodate the health and safety needs of the consumer;

(7) consumer rights and staff responsibilities related to protecting and ensuring the exercise of the consumer rights; and

(8) other topics necessary as determined by the consumer's individual service plan or other areas identified by the license holder.

(c) The license holder must document each employee's orientation received.

Sec. 13. Minnesota Statutes 2010, section 245B.07, is amended by adding a subdivision to read:

Subd. 7a. **Subcontractors.** If the license holder uses a subcontractor to perform services licensed under this chapter on the license holder's behalf, the license holder must ensure that the subcontractor meets and maintains compliance with all requirements under this chapter that apply to the services to be provided.

Sec. 14. Minnesota Statutes 2010, section 245B.07, subdivision 9, is amended to read:

Subd. 9. **Availability of current written policies and procedures.** The license holder shall:

(1) review and update, as needed, the written policies and procedures in this chapter;

(2) inform consumers or the consumer's legal representatives of the written policies and procedures in this chapter upon service initiation. Copies of policies and procedures affecting a consumer's rights under section 245D.04 must be provided upon service initiation. Copies of all other policies and procedures must be available to consumers or the consumer's legal representatives, case managers, the county where services are located, and the commissioner upon request;

(3) provide all consumers or the consumers' legal representatives and case managers a copy of the revised policies and procedures and explanation of the revisions to policies and procedures that affect consumers' service-related or protection-related rights under section 245B.04 and maltreatment reporting policies and procedures. Unless there is reasonable cause, the license holder must provide this notice at least 30 days before implementing the revised policy and procedure. The license holder must document the reason for not providing the notice at least 30 days before implementing the revisions;

(4) annually notify all consumers or the consumers' legal representatives and case managers of any revised policies and procedures under this chapter, other than those in clause (3). Upon request, the license holder must provide the consumer or consumer's legal representative and case manager copies of the revised policies and procedures;

(5) before implementing revisions to policies and procedures under this chapter, inform all employees of the revisions and provide training on implementation of the revised policies and procedures; and

(6) document and maintain relevant information related to the policies and procedures in this chapter.

Sec. 15. Minnesota Statutes 2010, section 245B.07, subdivision 10, is amended to read:

Subd. 10. **Consumer funds.** (a) The license holder must ensure that consumers retain the use and availability of personal funds or property unless restrictions are justified in the consumer's individual service plan.

(b) The license holder must ensure separation of consumer funds from funds of the license holder, the program, or program staff.

(c) Whenever the license holder assists a consumer with the safekeeping of funds or other property, the license holder must have written authorization to do so by the consumer or the consumer's legal representative, and the case manager. In addition, the license holder must:

(1) document receipt and disbursement of the consumer's funds or the property;

(2) annually survey, document, and implement the preferences of the consumer, consumer's legal representative, and the case manager for frequency of receiving a statement that itemizes receipts and disbursements of consumer funds or other property; and

(3) return to the consumer upon the consumer's request, funds and property in the license holder's possession subject to restrictions in the consumer's individual service plan, as soon as possible, but no later than three working days after the date of the request.

(d) License holders and program staff must not:

(1) borrow money from a consumer;

(2) purchase personal items from a consumer;

(3) sell merchandise or personal services to a consumer;

(4) require a consumer to purchase items for which the license holder is eligible for reimbursement; ~~or~~

(5) use consumer funds in a manner that would violate section 256B.04, or any rules promulgated under that section; or

(6) accept powers-of-attorney from a person receiving services from the license holder for any purpose, and may not accept an appointment as guardian or conservator of a person receiving services from the license holder. This does not apply to license holders that are Minnesota counties or other units of government.

Sec. 16. **[245D.01] CITATION.**

This chapter may be cited as the "Home and Community-Based Services Standards" or "HCBS Standards."

Sec. 17. **[245D.02] DEFINITIONS.**

Subdivision 1. **Scope.** The terms used in this chapter have the meanings given them in this section.

Subd. 2. **Annual and annually.** "Annual" and "annually" have the meaning given in section 245A.02, subdivision 2b.

Subd. 3. **Case manager.** "Case manager" means the individual designated to provide waiver case management services, care coordination, or long-term care consultation, as specified in sections 256B.0913, 256B.0915, 256B.092, and 256B.49, or successor provisions.

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of the Department of Human Services or the commissioner's designated representative.

Subd. 5. **Department.** "Department" means the Department of Human Services.

Subd. 6. **Direct contact.** "Direct contact" has the meaning given in section 245C.02, subdivision 11, and is used interchangeably with the term "direct service."

Subd. 7. **Drug.** "Drug" has the meaning given in section 151.01, subdivision 5.

Subd. 8. **Emergency.** "Emergency" means any event that affects the ordinary daily operation of the program including, but not limited to, fires, severe weather, natural disasters, power failures, or other events that threaten the immediate health and safety of a person receiving services and that require calling 911, emergency evacuation, moving to an emergency shelter, or temporary closure or relocation of the program to another facility or service site.

Subd. 9. **Health services.** "Health services" means any service or treatment consistent with the physical and mental health needs of the person, such as medication administration and monitoring, medical, dental, nutritional, health monitoring, wellness education, and exercise.

Subd. 10. **Home and community-based services.** "Home and community-based services" means the services subject to the provisions of this chapter and defined in the federal waiver plans governed by United States Code, title 42, sections 1396 et seq., or the state's alternative care program according to section 256B.0913, including the brain injury (BI) waiver, the community alternative care (CAC) waiver, the community alternatives for disabled individuals (CADI) waiver, the developmental disability (DD) waiver, the elderly waiver (EW), and the alternative care (AC) program.

Subd. 11. **Incident.** "Incident" means an occurrence that affects the ordinary provision of services to a person and includes any of the following:

(1) serious injury as determined by section 245.91, subdivision 6;

(2) a person's death;

(3) any medical emergency, unexpected serious illness, or significant unexpected change in an illness or medical condition, or the mental health status of a person that requires calling 911 or a mental health crisis intervention team, physician treatment, or hospitalization;

(4) a person's unauthorized or unexplained absence from a program;

(5) physical aggression by a person receiving services against another person receiving services that causes physical pain, injury, or persistent emotional distress, including, but not limited to, hitting, slapping, kicking, scratching, pinching, biting, pushing, and spitting;

(6) any sexual activity between persons receiving services involving force or coercion as defined under section 609.341, subdivisions 3 and 14; or

(7) a report of alleged or suspected child or vulnerable adult maltreatment under section 626.556 or 626.557.

Subd. 12. **Legal representative.** "Legal representative" means the parent of a person who is under 18 years of age, a court-appointed guardian, or other representative with legal authority to make decisions about services for a person.

Subd. 13. **License.** "License" has the meaning given in section 245A.02, subdivision 8.

Subd. 14. **Licensed health professional.** "Licensed health professional" means a person licensed in Minnesota to practice those professions described in section 214.01, subdivision 2.

Subd. 15. **License holder.** "License holder" has the meaning given in section 245A.02, subdivision 9.

Subd. 16. **Medication.** "Medication" means a prescription drug or over-the-counter drug. For purposes of this chapter, "medication" includes dietary supplements.

Subd. 17. **Medication administration.** "Medication administration" means performing the following set of tasks to ensure a person takes both prescription and over-the-counter medications and treatments according to orders issued by appropriately licensed professionals, and includes the following:

(1) checking the person's medication record;

(2) preparing the medication for administration;

(3) administering the medication to the person;

(4) documenting the administration of the medication or the reason for not administering the medication; and

(5) reporting to the prescriber or a nurse any concerns about the medication, including side effects, adverse reactions, effectiveness, or the person's refusal to take the medication or the person's self-administration of the medication.

Subd. 18. **Medication assistance.** "Medication assistance" means providing verbal or visual reminders to take regularly scheduled medication, which includes either of the following:

(1) bringing to the person and opening a container of previously set up medications and emptying the container into the person's hand or opening and giving the medications in the original container to the person, or bringing to the person liquids or food to accompany the medication; or

(2) providing verbal or visual reminders to perform regularly scheduled treatments and exercises.

Subd. 19. **Medication management.** "Medication management" means the provision of any of the following:

(1) medication-related services to a person;

(2) medication setup;

(3) medication administration;

(4) medication storage and security;

(5) medication documentation and charting;

(6) verification and monitoring of effectiveness of systems to ensure safe medication handling and administration;

(7) coordination of medication refills;

(8) handling changes to prescriptions and implementation of those changes;

(9) communicating with the pharmacy; or

(10) coordination and communication with prescriber.

For the purposes of this chapter, medication management does not mean "medication therapy management services" as identified in section 256B.0625, subdivision 13h.

Subd. 20. **Mental health crisis intervention team.** "Mental health crisis intervention team" means mental health crisis response providers as identified in section 256B.0624, subdivision 2, paragraph (d), for adults, and in section 256B.0944, subdivision 1, paragraph (d), for children.

Subd. 21. **Over-the-counter drug.** "Over-the-counter drug" means a drug that is not required by federal law to bear the statement "Caution: Federal law prohibits dispensing without prescription."

Subd. 22. **Person.** "Person" has the meaning given in section 245A.02, subdivision 11.

Subd. 23. **Person with a disability.** "Person with a disability" means a person determined to have a disability by the commissioner's state medical review team as identified in section 256B.055, subdivision 7, the Social Security Administration, or the person is determined to have a developmental disability as defined in Minnesota Rules, part 9525.0016, subpart 2, item B, or a related condition as defined in section 252.27, subdivision 1a.

Subd. 24. **Prescriber.** "Prescriber" means a licensed practitioner as defined in section 151.01, subdivision 23, who is authorized under section 151.37 to prescribe drugs. For the purposes of this chapter, the term "prescriber" is used interchangeably with "physician."

Subd. 25. **Prescription drug.** "Prescription drug" has the meaning given in section 151.01, subdivision 17.

Subd. 26. **Program.** "Program" means either the nonresidential or residential program as defined in section 245A.02, subdivisions 10 and 14.

Subd. 27. **Psychotropic medication.** "Psychotropic medication" means any medication prescribed to treat the symptoms of mental illness that affect thought processes, mood, sleep, or behavior. The major classes of psychotropic medication are antipsychotic (neuroleptic), antidepressant, antianxiety, mood stabilizers, anticonvulsants, and stimulants and nonstimulants for the treatment of attention deficit/hyperactivity disorder. Other miscellaneous medications are considered to be a psychotropic medication when they are specifically prescribed to treat a mental illness or to control or alter behavior.

Subd. 28. **Restraint.** "Restraint" means physical or mechanical limiting of the free and normal movement of body or limbs.

Subd. 29. **Seclusion.** "Seclusion" means separating a person from others in a way that prevents social contact and prevents the person from leaving the situation if he or she chooses.

Subd. 30. **Service.** "Service" means care, training, supervision, counseling, consultation, or medication assistance assigned to the license holder in the service plan.

Subd. 31. **Service plan.** "Service plan" means the individual service plan or individual care plan identified in sections 256B.0913, 256B.0915, 256B.092, and 256B.49, or successor provisions, and includes any support plans or service needs identified as a result of long-term care consultation, or a support team meeting that includes the participation of the person, the person's legal representative, and case manager, or assigned to a license holder through an authorized service agreement.

Subd. 32. **Service site.** "Service site" means the location where the service is provided to the person, including but not limited to, a facility licensed according to chapter 245A; a location where the license holder is the owner, lessor, or tenant; a person's own home; or a community-based location.

Subd. 33. **Staff.** "Staff" means an employee who will have direct contact with a person served by the facility, agency, or program.

Subd. 34. **Support team.** "Support team" means the service planning team identified in section 256B.49, subdivision 15, or the interdisciplinary team identified in Minnesota Rules, part 9525.0004, subpart 14.

Subd. 35. **Unit of government.** "Unit of government" means every city, county, town, school district, other political subdivisions of the state, and any agency of the state or the United States, and includes any instrumentality of a unit of government.

Subd. 36. **Volunteer.** "Volunteer" means an individual who, under the direction of the license holder, provides direct services without pay to a person served by the license holder.

Sec. 18. **[245D.03] APPLICABILITY AND EFFECT.**

Subdivision 1. **Applicability.** The commissioner shall regulate the provision of home and community-based services to persons with disabilities and persons age 65 and older pursuant to this chapter. The licensing standards in this chapter govern the provision of the following services:

- (1) housing access coordination as defined under the current BI, CADI, and DD waiver plans or successor plans;
- (2) respite services as defined under the current CADI, BI, CAC, DD, and EW waiver plans or successor plans when the provider is an individual who is not an employee of a residential or nonresidential program licensed by the Department of Human Services or the Department of Health that is otherwise providing the respite service;
- (3) behavioral programming as defined under the current BI and CADI waiver plans or successor plans;
- (4) specialist services as defined under the current DD waiver plan or successor plans;
- (5) companion services as defined under the current BI, CADI, and EW waiver plans or successor plans, excluding companion services provided under the Corporation for National and Community Services Senior Companion Program established under the Domestic Volunteer Service Act of 1973, Public Law 98-288;
- (6) personal support as defined under the current DD waiver plan or successor plans;
- (7) 24-hour emergency assistance, on-call and personal emergency response as defined under the current CADI and DD waiver plans or successor plans;
- (8) night supervision services as defined under the current BI waiver plan or successor plans;
- (9) homemaker services as defined under the current CADI, BI, CAC, DD, and EW waiver plans or successor plans, excluding providers licensed by the Department of Health under chapter 144A and those providers providing cleaning services only;
- (10) independent living skills training as defined under the current BI and CADI waiver plans or successor plans;
- (11) prevocational services as defined under the current BI and CADI waiver plans or successor plans;
- (12) structured day services as defined under the current BI waiver plan or successor plans; or
- (13) supported employment as defined under the current BI and CADI waiver plans or successor plans.

Subd. 2. **Relationship to other standards governing home and community-based services.** (a) A license holder governed by this chapter is also subject to the licensure requirements under chapter 245A.

(b) A license holder concurrently providing child foster care services licensed according to Minnesota Rules, chapter 2960, to the same person receiving a service licensed under this chapter is exempt from section 245D.04, as it applies to the person.

(c) A license holder concurrently providing home care services registered according to sections 144A.43 to 144A.49 to the same person receiving home management services licensed under this chapter is exempt from section 245D.04, as it applies to the person.

(d) A license holder identified in subdivision 1, clauses (1), (5), and (9), is exempt from compliance with sections 245A.65, subdivision 2, paragraph (a), and 626.557, subdivision 14, paragraph (b).

(e) Notwithstanding section 245D.06, subdivision 5, a license holder providing structured day, prevocational, or supported employment services under this chapter and day training and habilitation or supported employment services licensed under chapter 245B within the same program is exempt from compliance with this chapter, when the license holder notifies the commissioner in writing that the requirements under chapter 245B will be met for all persons receiving these services from the program. For the purposes of this paragraph, if the license holder has obtained approval from the commissioner for an alternative inspection status according to section 245B.031, that approval will apply to all persons receiving services in the program.

Subd. 3. **Variance.** If the conditions in section 245A.04, subdivision 9, are met, the commissioner may grant a variance to any of the requirements in this chapter, except sections 245D.04, and 245D.10, subdivision 4, paragraph (b), or provisions governing data practices and information rights of persons.

Subd. 4. **License holders with multiple 245D licenses.** (a) When a person changes service from one license to a different license held by the same license holder, the license holder is exempt from the requirements in section 245D.10, subdivision 4, paragraph (b).

(b) When a staff person begins providing direct service under one or more licenses held by the same license holder, other than the license for which staff orientation was initially provided according to section 245D.09, subdivision 4, the license holder is exempt from those staff orientation requirements; except the staff person must review each person's service plan and medication administration procedures in accordance with section 245D.09, subdivision 4, paragraph (c), if not previously reviewed by the staff person.

Sec. 19. **[245D.04] SERVICE RECIPIENT RIGHTS.**

Subdivision 1. **License holder responsibility for individual rights of persons served by the program.** The license holder must:

(1) provide each person or each person's legal representative with a written notice that identifies the service recipient rights in subdivisions 2 and 3, and an explanation of those rights within five working days of service initiation and annually thereafter;

(2) make reasonable accommodations to provide this information in other formats or languages as needed to facilitate understanding of the rights by the person and the person's legal representative, if any;

(3) maintain documentation of the person's or the person's legal representative's receipt of a copy and an explanation of the rights; and

(4) ensure the exercise and protection of the person's rights in the services provided by the license holder and as authorized in the service plan.

Subd. 2. **Service-related rights.** A person's service-related rights include the right to:

(1) participate in the development and evaluation of the services provided to the person;

(2) have services identified in the service plan provided in a manner that respects and takes into consideration the person's preferences;

(3) refuse or terminate services and be informed of the consequences of refusing or terminating services;

(4) know, in advance, limits to the services available from the license holder;

(5) know conditions and terms governing the provision of services, including the license holder's policies and procedures related to temporary service suspension and service termination;

(6) know what the charges are for services, regardless of who will be paying for the services, and be notified of changes in those charges;

(7) know, in advance, whether services are covered by insurance, government funding, or other sources, and be told of any charges the person or other private party may have to pay; and

(8) receive services from an individual who is competent and trained, who has professional certification or licensure, as required, and who meets additional qualifications identified in the person's service plan.

Subd. 3. **Protection-related rights.** (a) A person's protection-related rights include the right to:

(1) have personal, financial, service, health, and medical information kept private, and be advised of disclosure of this information by the license holder;

(2) access records and recorded information about the person in accordance with applicable state and federal law, regulation, or rule;

(3) be free from maltreatment;

(4) be free from restraint or seclusion used for a purpose other than to protect the person from imminent danger to self or others;

(5) receive services in a clean and safe environment when the license holder is the owner, lessor, or tenant of the service site;

(6) be treated with courtesy and respect and receive respectful treatment of the person's property;

(7) reasonable observance of cultural and ethnic practice and religion;

(8) be free from bias and harassment regarding race, gender, age, disability, spirituality, and sexual orientation;

(9) be informed of and use the license holder's grievance policy and procedures, including knowing how to contact persons responsible for addressing problems and to appeal under section 256.045;

(10) know the name, telephone number, and the Web site, e-mail, and street addresses of protection and advocacy services, including the appropriate state-appointed ombudsman, and a brief description of how to file a complaint with these offices;

(11) assert these rights personally, or have them asserted by the person's family, authorized representative, or legal representative, without retaliation;

(12) give or withhold written informed consent to participate in any research or experimental treatment;

(13) associate with other persons of the person's choice;

(14) personal privacy; and

(15) engage in chosen activities.

(b) For a person residing in a residential site licensed according to chapter 245A, or where the license holder is the owner, lessor, or tenant of the residential service site, protection-related rights also include the right to:

(1) have daily, private access to and use of a non-coin-operated telephone for local calls and long-distance calls made collect or paid for by the person;

(2) receive and send, without interference, uncensored, unopened mail or electronic correspondence or communication; and

(3) privacy for visits with the person's spouse, next of kin, legal counsel, religious advisor, or others, in accordance with section 363A.09 of the Human Rights Act, including privacy in the person's bedroom.

(c) Restriction of a person's rights under paragraph (a), clauses (13) to (15), or paragraph (b) is allowed only if determined necessary to ensure the health, safety, and well-being of the person. Any restriction of those rights must be documented in the service plan for the person and must include the following information:

(1) the justification for the restriction based on an assessment of the person's vulnerability related to exercising the right without restriction;

(2) the objective measures set as conditions for ending the restriction;

(3) a schedule for reviewing the need for the restriction based on the conditions for ending the restriction to occur, at a minimum, every three months for persons who do not have a legal representative and annually for persons who do have a legal representative from the date of initial approval; and

(4) signed and dated approval for the restriction from the person, or the person's legal representative, if any. A restriction may be implemented only when the required approval has been obtained. Approval may be withdrawn at any time. If approval is withdrawn, the right must be immediately and fully restored.

#### Sec. 20. **[245D.05] HEALTH SERVICES.**

Subdivision 1. **Health needs.** (a) The license holder is responsible for providing health services assigned in the service plan and consistent with the person's health needs. The license holder is responsible for promptly notifying the person or the person's legal representative and the case manager of changes in a person's physical and mental health needs affecting assigned health services, when discovered by the license holder, unless the license holder has reason to know the change has already been reported. The license holder must document when the notice is provided.

(b) When assigned in the service plan, the license holder is required to maintain documentation on how the person's health needs will be met, including a description of the procedures the license holder will follow in order to:

(1) provide medication administration, medication assistance, or medication management according to this chapter;

(2) monitor health conditions according to written instructions from the person's physician or a licensed health professional;

(3) assist with or coordinate medical, dental, and other health service appointments; or

(4) use medical equipment, devices, or adaptive aides or technology safely and correctly according to written instructions from the person's physician or a licensed health professional.

**Subd. 2. Medication administration.** (a) The license holder must ensure that the following criteria have been met before staff that is not a licensed health professional administers medication or treatment:

(1) written authorization has been obtained from the person or the person's legal representative to administer medication or treatment orders;

(2) the staff person has completed medication administration training according to section 245D.09, subdivision 4, paragraph (c), clause (2); and

(3) the medication or treatment will be administered under administration procedures established for the person in consultation with a licensed health professional. Written instruction from the person's physician may constitute the medication administration procedures. A prescription label or the prescriber's order for the prescription is sufficient to constitute written instructions from the prescriber. A licensed health professional may delegate medication administration procedures.

(b) The license holder must ensure the following information is documented in the person's medication administration record:

(1) the information on the prescription label or the prescriber's order that includes directions for safely and correctly administering the medication to ensure effectiveness;

(2) information on any discomforts, risks, or other side effects that are reasonable to expect, and any contraindications to its use;

(3) the possible consequences if the medication or treatment is not taken or administered as directed;

(4) instruction from the prescriber on when and to whom to report the following:

(i) if the medication or treatment is not administered as prescribed, whether by error by the staff or the person or by refusal by the person; and

(ii) the occurrence of possible adverse reactions to the medication or treatment;

(5) notation of any occurrence of medication not being administered as prescribed or of adverse reactions, and when and to whom the report was made; and

(6) notation of when a medication or treatment is started, changed, or discontinued.

(c) The license holder must ensure that the information maintained in the medication administration record is current and is regularly reviewed with the person or the person's legal representative and the staff administering the medication to identify medication administration issues or errors. At a minimum, the review must be conducted every three months or more often if requested by the person or the person's legal representative. Based on the review, the license holder must develop and implement a plan to correct medication administration issues or errors. If issues or concerns are identified related to the medication itself, the license holder must report those as required under subdivision 4.

**Subd. 3. Medication assistance.** The license holder must ensure that the requirements of subdivision 2, paragraph (a), have been met when staff provides assistance to enable a person to self-administer medication when the person is capable of directing the person's own care, or when the person's legal representative is present and able to direct care for the person.

Subd. 4. **Reporting medication and treatment issues.** The following medication administration issues must be reported to the person or the person's legal representative and case manager as they occur or following timelines established in the person's service plan or as requested in writing by the person or the person's legal representative, or the case manager:

- (1) any reports made to the person's physician or prescriber required under subdivision 2, paragraph (b), clause (4);
- (2) a person's refusal or failure to take medication or treatment as prescribed; or
- (3) concerns about a person's self-administration of medication.

Subd. 5. **Injectable medications.** Injectable medications may be administered according to a prescriber's order and written instructions when one of the following conditions has been met:

- (1) a registered nurse or licensed practical nurse will administer the subcutaneous or intramuscular injection;
- (2) a supervising registered nurse with a physician's order has delegated the administration of subcutaneous injectable medication to an unlicensed staff member and has provided the necessary training; or
- (3) there is an agreement signed by the license holder, the prescriber, and the person or the person's legal representative, specifying what subcutaneous injections may be given, when, how, and that the prescriber must retain responsibility for the license holder's giving the injections. A copy of the agreement must be placed in the person's service recipient record.

Only licensed health professionals are allowed to administer psychotropic medications by injection.

Sec. 21. **[245D.06] PROTECTION STANDARDS.**

Subdivision 1. **Incident response and reporting.** (a) The license holder must respond to all incidents under section 245D.02, subdivision 11, that occur while providing services to protect the health and safety of and minimize risk of harm to the person.

(b) The license holder must maintain information about and report incidents to the person's legal representative or designated emergency contact and case manager within 24 hours of an incident occurring while services are being provided, or within 24 hours of discovery or receipt of information that an incident occurred, unless the license holder has reason to know that the incident has already been reported. An incident of suspected or alleged maltreatment must be reported as required under paragraph (d), and an incident of serious injury or death must be reported as required under paragraph (e).

(c) When the incident involves more than one person, the license holder must not disclose personally identifiable information about any other person when making the report to each person and case manager unless the license holder has the consent of the person.

(d) Within 24 hours of reporting maltreatment as required under section 626.556 or 626.557, the license holder must inform the case manager of the report unless there is reason to believe that the case manager is involved in the suspected maltreatment. The license holder must disclose the nature of the activity or occurrence reported and the agency that received the report.

(e) Within 24 hours of the occurrence, or within 24 hours of receipt of the information, the license holder must report the death or serious injury of the person to the legal representative, if any, and case manager, the Department of Human Services Licensing Division, and the Office of Ombudsman for Mental Health and Developmental Disabilities as required under section 245.94, subdivision 2a.

(f) The license holder must conduct a review of incident reports, for identification of incident patterns, and implementation of corrective action as necessary to reduce occurrences.

**Subd. 2. Environment and safety.** The license holder must:

(1) ensure the following when the license holder is the owner, lessor, or tenant of the service site:

(i) the service site is a safe and hazard-free environment;

(ii) doors are locked or toxic substances or dangerous items normally accessible to persons served by the program are stored in locked cabinets, drawers, or containers only to protect the safety of a person receiving services and not as a substitute for staff supervision or interactions with a person who is receiving services. If doors are locked or toxic substances or dangerous items normally accessible to persons served by the program are stored in locked cabinets, drawers, or containers, the license holder must justify and document how this determination was made in consultation with the person or person's legal representative, and how access will otherwise be provided to the person and all other affected persons receiving services; and

(iii) a staff person is available on site who is trained in basic first aid whenever persons are present and staff are required to be at the site to provide direct service;

(2) maintain equipment, vehicles, supplies, and materials owned or leased by the license holder in good condition when used to provide services;

(3) follow procedures to ensure safe transportation, handling, and transfers of the person and any equipment used by the person, when the license holder is responsible for transportation of a person or a person's equipment;

(4) be prepared for emergencies and follow emergency response procedures to ensure the person's safety in an emergency; and

(5) follow sanitary practices for infection control and to prevent communicable diseases.

**Subd. 3. Compliance with fire and safety codes.** When services are provided at a service site licensed according to chapter 245A or where the license holder is the owner, lessor, or tenant of the service site, the license holder must document compliance with applicable building codes, fire and safety codes, health rules, and zoning ordinances, or document that an appropriate waiver has been granted.

**Subd. 4. Funds and property.** (a) Whenever the license holder assists a person with the safekeeping of funds or other property according to section 245A.04, subdivision 13, the license holder must have written authorization to do so from the person and the case manager.

(b) A license holder or staff person may not accept powers-of-attorney from a person receiving services from the license holder for any purpose, and may not accept an appointment as guardian or conservator of a person receiving services from the license holder. This does not apply to license holders that are Minnesota counties or other units of government.

**Subd. 5. Prohibitions.** The license holder is prohibited from using psychotropic medication as a substitute for adequate staffing, as punishment, for staff convenience, or for any reason other than as prescribed.

Sec. 22. **[245D.07] SERVICE NEEDS.**

Subdivision 1. **Provision of services.** The license holder must provide services as specified in the service plan and assigned to the license holder. The provision of services must comply with the requirements of this chapter and the federal waiver plans.

Subd. 2. **Service planning.** The license holder must participate in support team meetings related to the person following stated timelines established in the person's service plan or as requested by the support team, the person, or the person's legal representative.

Subd. 3. **Reports.** The license holder must provide written reports regarding the person's progress or status as requested by the person, the person's legal representative, the case manager, or the team.

Sec. 23. **[245D.08] RECORD REQUIREMENTS.**

Subdivision 1. **Record-keeping systems.** The license holder must ensure that the content and format of service recipient, personnel, and program records are uniform, legible, and in compliance with the requirements of this chapter.

Subd. 2. **Service recipient record.** (a) The license holder must:

(1) maintain a record of current services provided to each person on the premises where the services are provided or coordinated; and

(2) protect service recipient records against loss, tampering, or unauthorized disclosure in compliance with sections 13.01 to 13.10 and 13.46.

(b) The license holder must maintain the following information for each person:

(1) identifying information, including the person's name, date of birth, address, and telephone number;

(2) the name, address, and telephone number of the person's legal representative, if any, an emergency contact, the case manager, and family members or others as identified by the person or case manager;

(3) service information, including service initiation information, verification of the person's eligibility for services, and documentation verifying that services have been provided as identified in the service plan according to paragraph (a);

(4) health information, including medical history and allergies; and when the license holder is assigned responsibility for meeting the person's health needs according to section 245D.05:

(i) current orders for medication, treatments, or medical equipment;

(ii) medication administration procedures;

(iii) a medication administration record documenting the implementation of the medication administration procedures, including any agreements for administration of injectable medications by the license holder; and

(iv) a medical appointment schedule;

(5) the person's current service plan or that portion of the plan assigned to the license holder. When a person's case manager does not provide a current service plan, the license holder must make a written request to the case manager to provide a copy of the service plan and inform the person of the right to a current service plan and the right to appeal under section 256.045;

(6) a record of other service providers serving the person when the person's service plan identifies the need for coordination between the service providers, that includes a contact person and telephone numbers, services being provided, and names of staff responsible for coordination;

(7) documentation of orientation to the service recipient rights according to section 245D.04, subdivision 1, and maltreatment reporting policies and procedures according to section 245A.65, subdivision 1, paragraph (c);

(8) copies of authorizations to handle a person's funds, according to section 245D.06, subdivision 4, paragraph (a);

(9) documentation of complaints received and grievance resolution;

(10) incident reports required under section 245D.06, subdivision 1;

(11) copies of written reports regarding the person's status when requested according to section 245D.07, subdivision 3; and

(12) discharge summary, including service termination notice and related documentation, when applicable.

**Subd. 3. Access to service recipient records.** The license holder must ensure that the following people have access to the information in subdivision 1 in accordance with applicable state and federal law, regulation, or rule:

(1) the person, the person's legal representative, and anyone properly authorized by the person;

(2) the person's case manager;

(3) staff providing services to the person unless the information is not relevant to carrying out the service plan; and

(4) the county adult foster care licenser, when services are also licensed as adult foster care.

**Subd. 4. Personnel records.** The license holder must maintain a personnel record of each employee, direct service volunteer, and subcontractor to document and verify staff qualifications, orientation, and training. For the purposes of this subdivision, the terms "staff" or "staff person" mean paid employee, direct service volunteer, or subcontractor. The personnel record must include:

(1) the staff person's date of hire, completed application, a position description signed by the staff person, documentation that the staff person meets the position requirements as determined by the license holder, the date of first supervised direct contact with a person served by the program, and the date of first unsupervised direct contact with a person served by the program;

(2) documentation of staff qualifications, orientation, training, and performance evaluations as required under section 245D.09, subdivisions 3, 4, and 5, including the date the training was completed, the number of hours per subject area, and the name and qualifications of the trainer or instructor; and

(3) a completed background study as required under chapter 245C.

Sec. 24. **[245D.09] STAFFING STANDARDS.**

Subdivision 1. **Staffing requirements.** The license holder must provide direct service staff sufficient to ensure the health, safety, and protection of rights of each person and to be able to implement the responsibilities assigned to the license holder in each person's service plan.

Subd. 2. **Supervision of staff having direct contact.** Except for a license holder who are the sole direct service staff, the license holder must provide adequate supervision of staff providing direct service to ensure the health, safety, and protection of rights of each person and implementation of the responsibilities assigned to the license holder in each person's service plan.

Subd. 3. **Staff qualifications.** (a) The license holder must ensure that staff is competent through training, experience, and education to meet the person's needs and additional requirements as written in the service plan, or when otherwise required by the case manager or the federal waiver plan. The license holder must verify and maintain evidence of staff competency, including documentation of:

(1) education and experience qualifications, including a valid degree and transcript, or a current license, registration, or certification, when a degree or licensure, registration, or certification is required;

(2) completion of required orientation and training, including completion of continuing education required to maintain professional licensure, registration, or certification requirements; and

(3) except for a license holder who is the sole direct service staff, performance evaluations completed by the license holder of the direct service staff person's ability to perform the job functions based on direct observation.

(b) Staff under 18 years of age may not perform overnight duties or administer medication.

Subd. 4. **Orientation.** (a) Except for a license holder who does not supervise any direct service staff, within 90 days of hiring direct service staff, the license holder must provide and ensure completion of orientation that combines supervised on-the-job training with review of and instruction on the following:

(1) the job description and how to complete specific job functions, including:

(i) responding to and reporting incidents as required under section 245D.06, subdivision 1; and

(ii) following safety practices established by the license holder and as required in section 245D.06, subdivision 2;

(2) the license holder's current policies and procedures required under this chapter, including their location and access, and staff responsibilities related to implementation of those policies and procedures;

(3) data privacy requirements according to sections 13.01 to 13.10 and 13.46, the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), and staff responsibilities related to complying with data privacy practices;

(4) the service recipient rights under section 245D.04, and staff responsibilities related to ensuring the exercise and protection of those rights;

(5) sections 245A.65; 245A.66, 626.556, and 626.557, governing maltreatment reporting and service planning for children and vulnerable adults, and staff responsibilities related to protecting persons from maltreatment and reporting maltreatment;

(6) what constitutes use of restraints, seclusion, and psychotropic medications, and staff responsibilities related to the prohibitions of their use; and

(7) other topics as determined necessary in the person's service plan by the case manager or other areas identified by the license holder.

(b) License holders who provide direct service themselves must complete the orientation required in paragraph (a), clauses (3) to (7).

(c) Before providing unsupervised direct service to a person served by the program, or for whom the staff person has not previously provided direct service, or any time the plans or procedures identified in clauses (1) and (2) are revised, the staff person must review and receive instruction on the following as it relates to the staff person's job functions for that person:

(1) the person's service plan as it relates to the responsibilities assigned to the license holder, and when applicable, the person's individual abuse prevention plan according to section 245A.65, to achieve an understanding of the person as a unique individual, and how to implement those plans; and

(2) medication administration procedures established for the person when assigned to the license holder according to section 245D.05, subdivision 1, paragraph (b). Unlicensed staff may administer medications only after successful completion of a medication administration training, from a training curriculum developed by a registered nurse, clinical nurse specialist in psychiatric and mental health nursing, certified nurse practitioner, physician's assistant, or physician incorporating an observed skill assessment conducted by the trainer to ensure staff demonstrate the ability to safely and correctly follow medication procedures. Medication administration must be taught by a registered nurse, clinical nurse specialist, certified nurse practitioner, physician's assistant, or physician, if at the time of service initiation or any time thereafter, the person has or develops a health care condition that affects the service options available to the person because the condition requires:

(i) specialized or intensive medical or nursing supervision;

(ii) nonmedical service providers to adapt their services to accommodate the health and safety needs of the person; and

(iii) necessary training in order to meet the health service needs of the person as determined by the person's physician.

Subd. 5. **Training.** (a) A license holder must provide annual training to direct service staff on the topics identified in subdivision 4, paragraph (a), clauses (3) to (6).

(b) A license holder providing behavioral programming, specialist services, personal support, 24-hour emergency assistance, night supervision, independent living skills, structured day, prevocational, or supported employment services must provide a minimum of eight hours of annual training to direct service staff that addresses:

(1) topics related to the general health, safety, and service needs of the population served by the license holder; and

(2) other areas identified by the license holder or in the person's current service plan.

Training on relevant topics received from sources other than the license holder may count toward training requirements.

(c) When the license holder is the owner, lessor, or tenant of the service site and whenever a person receiving services is present at the site, the license holder must have a staff person available on site who is trained in basic first aid and, when required in a person's service plan, cardiopulmonary resuscitation.

Subd. 6. **Subcontractors.** If the license holder uses a subcontractor to perform services licensed under this chapter on their behalf, the license holder must ensure that the subcontractor meets and maintains compliance with all requirements under this chapter that apply to the services to be provided.

Subd. 7. **Volunteers.** The license holder must ensure that volunteers who provide direct services to persons served by the program receive the training, orientation, and supervision necessary to fulfill their responsibilities.

Sec. 25. **[245D.10] POLICIES AND PROCEDURES.**

Subdivision 1. **Policy and procedure requirements.** The license holder must establish, enforce, and maintain policies and procedures as required in this chapter.

Subd. 2. **Grievances.** The license holder must establish policies and procedures that provide a simple complaint process for persons served by the program and their authorized representatives to bring a grievance that:

(1) provides staff assistance with the complaint process when requested, and the addresses and telephone numbers of outside agencies to assist the person;

(2) allows the person to bring the complaint to the highest level of authority in the program if the grievance cannot be resolved by other staff members, and that provides the name, address, and telephone number of that person;

(3) requires the license holder to promptly respond to all complaints affecting a person's health and safety. For all other complaints the license holder must provide an initial response within 14 calendar days of receipt of the complaint. All complaints must be resolved within 30 calendar days of receipt or the license holder must document the reason for the delay and a plan for resolution;

(4) requires a complaint review that includes an evaluation of whether:

(i) related policies and procedures were followed and adequate;

(ii) there is a need for additional staff training;

(iii) the complaint is similar to past complaints with the persons, staff, or services involved; and

(iv) there is a need for corrective action by the license holder to protect the health and safety of persons receiving services;

(5) based on the review in clause (4), requires the license holder to develop, document, and implement a corrective action plan, designed to correct current lapses and prevent future lapses in performance by staff or the license holder, if any;

(6) provides a written summary of the complaint and a notice of the complaint resolution to the person and case manager, that:

(i) identifies the nature of the complaint and the date it was received;

(ii) includes the results of the complaint review;

(iii) identifies the complaint resolution, including any corrective action; and

(7) requires that the complaint summary and resolution notice be maintained in the service recipient record.

**Subd. 3. Service suspension and service termination.** (a) The license holder must establish policies and procedures for temporary service suspension and service termination that promote continuity of care and service coordination with the person and the case manager, and with other licensed caregivers, if any, who also provide support to the person.

(b) The policy must include the following requirements:

(1) the license holder must notify the person and case manager in writing of the intended termination or temporary service suspension, and the person's right to seek a temporary order staying the termination of service according to the procedures in section 256.045, subdivision 4a, or 6, paragraph (c);

(2) notice of the proposed termination of services, including those situations that began with a temporary service suspension, must be given at least 60 days before the proposed termination is to become effective when a license holder is providing independent living skills training, structured day, prevocational or supported employment services to the person, and 30 days prior to termination for all other services licensed under this chapter;

(3) the license holder must provide information requested by the person or case manager when services are temporarily suspended or upon notice of termination;

(4) prior to giving notice of service termination or temporary service suspension, the license holder must document actions taken to minimize or eliminate the need for service suspension or termination;

(5) during the temporary service suspension or service termination notice period, the license holder will work with the appropriate county agency to develop reasonable alternatives to protect the person and others;

(6) the license holder must maintain information about the service suspension or termination, including the written termination notice, in the service recipient record; and

(7) the license holder must restrict temporary service suspension to situations in which the person's behavior causes immediate and serious danger to the health and safety of the person or others.

**Subd. 4. Availability of current written policies and procedures.** (a) The license holder must review and update, as needed, the written policies and procedures required under this chapter.

(b) The license holder must inform the person and case manager of the policies and procedures affecting a person's rights under section 245D.04, and provide copies of those policies and procedures, within five working days of service initiation.

(c) The license holder must provide a written notice at least 30 days before implementing any revised policies and procedures affecting a person's rights under section 245D.04. The notice must explain the revision that was made and include a copy of the revised policy and procedure. The license holder must document the reason for not providing the notice at least 30 days before implementing the revisions.

(d) Before implementing revisions to required policies and procedures the license holder must inform all employees of the revisions and provide training on implementation of the revised policies and procedures.

Sec. 26. Minnesota Statutes 2010, section 252.40, is amended to read:

**252.40 SERVICE PRINCIPLES AND RATE-SETTING PROCEDURES.**

(a) Sections 252.40 to 252.46 apply to day training and habilitation services for adults with developmental disabilities when the services are authorized to be funded by a county and provided under a contract between a county board and a vendor as defined in section 252.41. Nothing in sections 252.40 to 252.46 absolves intermediate care facilities for persons with developmental disabilities of the responsibility for providing active treatment and habilitation under federal regulations with which those facilities must comply to be certified by the Minnesota Department of Health.

(b) This section expires January 1, 2013.

Sec. 27. Minnesota Statutes 2010, section 252.41, subdivision 3, is amended to read:

Subd. 3. **Day training and habilitation services for adults with developmental disabilities.** "Day training and habilitation services for adults with developmental disabilities" means services that:

(1) include supervision, training, assistance, and supported employment, work-related activities, or other community-integrated activities designed and implemented in accordance with the individual service and individual habilitation plans required under Minnesota Rules, parts 9525.0015 to 9525.0165, to help an adult reach and maintain the highest possible level of independence, productivity, and integration into the community; and

(2) are provided ~~under contract with the county where the services are delivered~~ by a vendor licensed under sections 245A.01 to 245A.16 and 252.28, subdivision 2, to provide day training and habilitation services.

Day training and habilitation services reimbursable under this section do not include special education and related services as defined in the Education of the Individuals with Disabilities Act, United States Code, title 20, chapter 33, section 1401, clauses (6) and (17), or vocational services funded under section 110 of the Rehabilitation Act of 1973, United States Code, title 29, section 720, as amended.

**EFFECTIVE DATE.** This section is effective January 1, 2013.

Sec. 28. Minnesota Statutes 2010, section 252.42, is amended to read:

**252.42 SERVICE PRINCIPLES.**

The design and delivery of services eligible for reimbursement ~~under the rates established in section 252.46~~ should reflect the following principles:

(1) services must suit a person's chronological age and be provided in the least restrictive environment possible, consistent with the needs identified in the person's individual service and individual habilitation plans under Minnesota Rules, parts 9525.0015 to 9525.0165;

(2) a person with a developmental disability whose individual service and individual habilitation plans authorize employment or employment-related activities shall be given the opportunity to participate in employment and employment-related activities in which nondisabled persons participate;

(3) a person with a developmental disability participating in work shall be paid wages commensurate with the rate for comparable work and productivity except as regional centers are governed by section 246.151;

(4) a person with a developmental disability shall receive services which include services offered in settings used by the general public and designed to increase the person's active participation in ordinary community activities;

(5) a person with a developmental disability shall participate in the patterns, conditions, and rhythms of everyday living and working that are consistent with the norms of the mainstream of society.

**EFFECTIVE DATE.** This section is effective January 1, 2013.

Sec. 29. Minnesota Statutes 2010, section 252.43, is amended to read:

**252.43 COMMISSIONER'S DUTIES.**

The commissioner shall supervise county boards' provision of day training and habilitation services to adults with developmental disabilities. The commissioner shall:

(1) determine the need for day training and habilitation services under section 252.28;

(2) ~~approve payment rates established by a county under section 252.46, subdivision 1~~ implement the payment rates under section 256B.4913. The payment rates will supersede rates established in county contracts for recipients receiving day training and habilitation funded through Medicaid;

(3) adopt rules for the administration and provision of day training and habilitation services under sections ~~252.40 to 252.46~~ 252.41 to 252.46 and sections 245A.01 to 245A.16 and 252.28, subdivision 2;

(4) enter into interagency agreements necessary to ensure effective coordination and provision of day training and habilitation services;

(5) monitor and evaluate the costs and effectiveness of day training and habilitation services; and

(6) provide information and technical help to county boards and vendors in their administration and provision of day training and habilitation services.

**EFFECTIVE DATE.** This section is effective January 1, 2013.

Sec. 30. Minnesota Statutes 2010, section 252.44, is amended to read:

**252.44 COUNTY BOARD RESPONSIBILITIES.**

(a) When the need for day training and habilitation services in a county has been determined under section 252.28, the board of commissioners for that county shall:

(1) authorize the delivery of services according to the individual service and habilitation plans required as part of the county's provision of case management services under Minnesota Rules, parts 9525.0015 to 9525.0165. For calendar years for which section 252.46, subdivisions 2 to 10, apply, the county board shall not authorize a change in service days from the number of days authorized for the previous calendar year unless there is documentation for the change in the individual service plan. An increase in service days must also be supported by documentation that the goals and objectives assigned to the vendor cannot be met more economically and effectively by other available community services and that without the additional days of service the individual service plan could not be implemented in a manner consistent with the service principles in section 252.42;

(2) contract with licensed vendors, as specified in paragraph (b), under sections 256E.12 and 256B.092 and rules adopted under those sections;

(3) ensure that transportation is provided or arranged by the vendor in the most efficient and reasonable way possible; and

(4) ~~set~~ apply payment rates under section ~~252.46~~ 256B.4913;

(5) monitor and evaluate the cost and effectiveness of the services; and

(6) reimburse vendors for the provision of authorized services according to the rates, procedures, and regulations governing reimbursement.

(b) With all vendors ~~except regional centers~~, the contract must include the approved payment rates under section 256B.4913, the projected budget for the contract period, and any actual expenditures of previous and current contract periods. ~~With all vendors, including regional centers~~, The contract must also include the amount, availability, and components of day training and habilitation services to be provided, the performance standards governing service provision and evaluation, and the time period in which the contract is effective.

**EFFECTIVE DATE.** This section is effective January 1, 2013.

Sec. 31. Minnesota Statutes 2010, section 252.45, is amended to read:

**252.45 VENDOR'S DUTIES.**

~~A vendor's responsibility~~ vendor enrolled through the process established by the commissioner is responsible under clauses (1), ~~(2), and (3)~~ to (4). This responsibility extends only to the provision of services that are reimbursable under state and federal law. A vendor ~~under contract with a county board to provide~~ providing day training and habilitation services shall:

(1) provide the amount and type of services authorized in the individual service plan under Minnesota Rules, parts 9525.0015 to 9525.0165;

(2) design the services to achieve the outcomes assigned to the vendor in the individual service plan;

(3) provide or arrange for transportation of persons receiving services to and from service sites; and

(4) enter into agreements with community-based intermediate care facilities for persons with developmental disabilities to ensure compliance with applicable federal regulations; ~~and~~.

~~(5) comply with state and federal law.~~

**EFFECTIVE DATE.** This section is effective January 1, 2013.

Sec. 32. Minnesota Statutes 2010, section 252.451, subdivision 2, is amended to read:

Subd. 2. **Vendor participation and reimbursement.** Notwithstanding requirements in chapter 245A, and sections 252.28, ~~252.40 to 252.46~~ 252.41 to 252.46, and 256B.501, vendors of day training and habilitation services may enter into written agreements with qualified businesses to provide additional training and supervision needed by individuals to maintain their employment.

**EFFECTIVE DATE.** This section is effective January 1, 2013.

Sec. 33. Minnesota Statutes 2010, section 252.451, subdivision 5, is amended to read:

Subd. 5. **Vendor payment.** (a) For purposes of this section, ~~the vendor shall bill and the commissioner shall reimburse the vendor for full day or partial day services to a client that would otherwise have been paid to the vendor for providing direct services, provided that both of the following criteria are met:~~

~~(1) the vendor provides services and payments to the qualified business that enable the business to perform support and supervision services for the client that the vendor would otherwise need to perform; and~~

~~(2) the client for whom a rate will be billed will receive full day or partial day services from the vendor and the rate to be paid the vendor will allow the client to work with this support and supervision at the qualified business instead of receiving these services from the vendor. vendors of day training and habilitation services that enter into agreements with qualified businesses shall reimburse the qualified business according to the terms of their written agreement as defined in subdivision 3, clause (5), items (i) and (ii).~~

(b) Medical assistance reimbursement of services provided to persons receiving day training and habilitation services under this section is subject to the limitations on reimbursement for vocational services under federal law and regulation.

**EFFECTIVE DATE.** This section is effective January 1, 2013.

Sec. 34. Minnesota Statutes 2010, section 252.46, subdivision 1a, is amended to read:

Subd. 1a. **Day training and habilitation rates.** The commissioner shall establish a statewide rate-setting methodology for all day training and habilitation services as defined in section 256B.4913. ~~The rate setting payment~~ methodology must abide by the principles of transparency and equitability across the state. The methodology must involve a uniform process of structuring rates for each service and must promote quality and participant choice under section 256B.4913.

**EFFECTIVE DATE.** This section is effective January 1, 2013.

Sec. 35. Minnesota Statutes 2010, section 256B.0916, subdivision 2, is amended to read:

Subd. 2. **Distribution of funds; partnerships.** (a) Beginning with fiscal year 2000, the commissioner shall distribute all funding available for home and community-based waiver services for persons with developmental disabilities to individual counties or to groups of counties that form partnerships to jointly plan, administer, and authorize funding for eligible individuals. The commissioner shall encourage counties to form partnerships that have a sufficient number of recipients and funding to adequately manage the risk and maximize use of available resources.

(b) Counties must submit a request for funds and a plan for administering the program as required by the commissioner. The plan must identify the number of clients to be served, their ages, and their priority listing based on:

(1) requirements in Minnesota Rules, part 9525.1880; and

(2) statewide priorities identified in section 256B.092, subdivision 12.

The plan must also identify changes made to improve services to eligible persons and to improve program management.

(c) In allocating resources to counties, priority must be given to groups of counties that form partnerships to jointly plan, administer, and authorize funding for eligible individuals and to counties determined by the commissioner to have sufficient waiver capacity to maximize resource use.

(d) Within 30 days after receiving the county request for funds and plans, the commissioner shall provide a written response to the plan that includes the level of resources available to serve additional persons.

(e) Counties are eligible to receive medical assistance administrative reimbursement for administrative costs under criteria established by the commissioner.

(f) Beginning January 1, 2013, the commissioner shall implement, within the allocation methodologies for each home and community-based waiver under this section, a procedure to adjust for the impact on waiver allocations of changes in payment and waiver service usage under section 256B.4913. In the aggregate, the procedure may not increase or decrease the amount of waiver funds available for allocation to counties or tribes under this section.

Sec. 36. Minnesota Statutes 2011 Supplement, section 256B.49, subdivision 16a, is amended to read:

Subd. 16a. **Medical assistance reimbursement.** ~~(a) The commissioner shall seek federal approval for medical assistance reimbursement of independent living skills services, foster care waiver service, supported employment, prevocational service, and structured day service under the home and community-based waiver for persons with a traumatic brain injury, the community alternatives for disabled individuals waivers, and the community alternative care waivers.~~

~~(b) Medical reimbursement shall be made only when the provider demonstrates evidence of its capacity to meet basic health, safety, and protection standards through the following methods:~~

~~(1) for independent living skills services, supported employment, prevocational service, and structured day service through one of the methods in paragraphs (c) and (d); and~~

~~(2) for foster care waiver services through the method in paragraph (c).~~

~~(c) The provider is licensed to provide services under chapter 245B and agrees to apply these standards to services funded through the traumatic brain injury, community alternatives for disabled persons, or community alternative care home and community based waivers.~~

~~(d) The commissioner shall certify that the provider has policies and procedures governing the following:~~

~~(1) protection of the consumer's rights and privacy;~~

~~(2) risk assessment and planning;~~

~~(3) record keeping and reporting of incidents and emergencies with documentation of corrective action if needed;~~

~~(4) service outcomes, regular reviews of progress, and periodic reports;~~

~~(5) complaint and grievance procedures;~~

~~(6) service termination or suspension;~~

~~(7) necessary training and supervision of direct care staff that includes:~~

~~(i) documentation in personnel files of 20 hours of orientation training in providing training related to service provision;~~

~~(ii) training in recognizing the symptoms and effects of certain disabilities, health conditions, and positive behavioral supports and interventions;~~

~~(iii) a minimum of five hours of related training annually; and~~

~~(iv) when applicable:~~

~~(A) safe medication administration;~~

~~(B) proper handling of consumer funds; and~~

~~(C) compliance with prohibitions and standards developed by the commissioner to satisfy federal requirements regarding the use of restraints and restrictive interventions. The commissioner shall review at least biennially that each service provider's policies and procedures governing basic health, safety, and protection of rights continue to meet minimum standards.~~

~~(e) The commissioner shall seek federal approval for Medicaid reimbursement of foster care services under the home and community based waiver for persons with a traumatic brain injury, the community alternatives for disabled individuals waiver, and community alternative care waiver when the provider demonstrates evidence of its capacity to meet basic health, safety, and protection standards. The commissioner shall verify that the adult foster care provider is licensed under Minnesota Rules, parts 9555.5105 to 9555.6265; that the child foster care provider is licensed as a family foster care or a foster care residence under Minnesota Rules, parts 2960.3000 to 2960.3340, and certify that the provider has policies and procedures that govern:~~

~~(1) compliance with prohibitions and standards developed by the commissioner to meet federal requirements regarding the use of restraints and restrictive interventions;~~

~~(2) documentation of service needs and outcomes, regular reviews of progress, and periodic reports; and~~

~~(3) safe medication management and administration.~~

~~The commissioner shall review at least biennially that each service provider's policies and procedures governing basic health, safety, and protection of rights standards continue to meet minimum standards.~~

~~(f) The commissioner shall seek federal waiver approval for Medicaid reimbursement of family adult day services under all disability waivers. After the waiver is granted, the commissioner shall include family adult day services in the common services menu that is currently under development.~~

Sec. 37. Minnesota Statutes 2010, section 256B.49, subdivision 17, is amended to read:

Subd. 17. **Cost of services and supports.** (a) The commissioner shall ensure that the average per capita expenditures estimated in any fiscal year for home and community-based waiver recipients does not exceed the average per capita expenditures that would have been made to provide institutional services for recipients in the absence of the waiver.

(b) The commissioner shall implement on January 1, 2002, one or more aggregate, need-based methods for allocating to local agencies the home and community-based waived service resources available to support recipients with disabilities in need of the level of care provided in a nursing facility or a hospital. The commissioner shall allocate resources to single counties and county partnerships in a manner that reflects consideration of:

- (1) an incentive-based payment process for achieving outcomes;
- (2) the need for a state-level risk pool;
- (3) the need for retention of management responsibility at the state agency level; and
- (4) a phase-in strategy as appropriate.

(c) Until the allocation methods described in paragraph (b) are implemented, the annual allowable reimbursement level of home and community-based waiver services shall be the greater of:

(1) the statewide average payment amount which the recipient is assigned under the waiver reimbursement system in place on June 30, 2001, modified by the percentage of any provider rate increase appropriated for home and community-based services; or

(2) an amount approved by the commissioner based on the recipient's extraordinary needs that cannot be met within the current allowable reimbursement level. The increased reimbursement level must be necessary to allow the recipient to be discharged from an institution or to prevent imminent placement in an institution. The additional reimbursement may be used to secure environmental modifications; assistive technology and equipment; and increased costs for supervision, training, and support services necessary to address the recipient's extraordinary needs. The commissioner may approve an increased reimbursement level for up to one year of the recipient's relocation from an institution or up to six months of a determination that a current waiver recipient is at imminent risk of being placed in an institution.

(d) Beginning July 1, 2001, medically necessary private duty nursing services will be authorized under this section as complex and regular care according to sections 256B.0651 to 256B.0656 and 256B.0659. The rate established by the commissioner for registered nurse or licensed practical nurse services under any home and community-based waiver as of January 1, 2001, shall not be reduced.

(e) Notwithstanding section 252.28, subdivision 3, paragraph (d), if the 2009 legislature adopts a rate reduction that impacts payment to providers of adult foster care services, the commissioner may issue adult foster care licenses that permit a capacity of five adults. The application for a five-bed license must meet the requirements of section 245A.11, subdivision 2a. Prior to admission of the fifth recipient of adult foster care services, the county must negotiate a revised per diem rate for room and board and waiver services that reflects the legislated rate reduction and results in an overall average per diem reduction for all foster care recipients in that home. The revised per diem must allow the provider to maintain, as much as possible, the level of services or enhanced services provided in the residence, while mitigating the losses of the legislated rate reduction.

(f) Beginning January 1, 2013, the commissioner shall implement, within the allocation methodologies for each home and community-based waiver under this section, a procedure to adjust for the impact on waiver allocations of changes in payment and waiver service usage under section 256B.4913. In the aggregate, the procedure may not increase or decrease the amount of waiver funds available for allocation to counties or tribes under this section.

Sec. 38. Minnesota Statutes 2010, section 256B.4912, is amended to read:

**256B.4912 HOME AND COMMUNITY-BASED WAIVERS; PROVIDERS AND PAYMENT.**

Subdivision 1. **Provider qualifications.** For the home and community-based waivers providing services to seniors and individuals with disabilities, the commissioner shall establish:

(1) agreements with enrolled waiver service providers to ensure providers meet ~~qualifications defined in the waiver plans~~ Minnesota health care program requirements;

(2) regular reviews of provider qualifications, and including requests of proof of documentation; and

(3) processes to gather the necessary information to determine provider qualifications.

~~By July 2010, Beginning July 2012,~~ staff that provide direct contact, as defined in section 245C.02, subdivision 11, ~~that are employees of waiver service providers for services specified in the federally approved waiver plans~~ must meet the requirements of chapter 245C prior to providing waiver services and as part of ongoing enrollment. Upon federal approval, this requirement must also apply to consumer-directed community supports.

Subd. 2. **Rate-setting Payment methodologies.** The commissioner shall establish statewide ~~rate-setting payment methodologies~~ that meet federal waiver requirements for home and community-based waiver services for individuals with disabilities. The ~~rate-setting payment~~ methodologies must abide by the principles of transparency and equitability across the state. The methodologies must involve a uniform process of structuring rates for each service and must promote quality and participant choice.

Subd. 3. **Payment requirements.** The payment-setting methodologies established under this section shall accommodate:

(1) direct care staffing wages;

(2) staffing patterns;

(3) program-related expenses;

(4) general and administrative expenses; and

(5) consideration of recipient intensity.

Subd. 4. **Payment rate criteria.** (a) The payment structures and methodologies under this section shall reflect the payment rate criteria in paragraphs (b) and (c).

(b) Payment rates must be based on reasonable costs that are ordinary, necessary, and related to delivery of authorized client services.

(c) The commissioner must not reimburse:

(1) unauthorized service delivery;

(2) services provided under a receipt of a special grant;

(3) services provided under contract to a local school district;

(4) extended employment services under Minnesota Rules, parts 3300.2005 to 3300.3100, or vocational rehabilitation services provided under the federal Rehabilitation Act, as amended, Title I, section 110, or Title VI-C, and not through use of medical assistance or county social service funds; or

(5) services provided to a client by a licensed medical, therapeutic, or rehabilitation practitioner or any other vendor of medical care which are billed separately on a fee-for-service basis.

Subd. 5. **County and tribal provider contract elimination.** County and tribal contracts with providers of home and community-based waiver services provided under sections 256B.0913, 256B.0915, 256B.092, and 256B.49 are eliminated effective January 1, 2013, or when the commissioner receives authority for the collection of fees for home and community-based waiver services under section 245A.10, subdivisions 3, paragraph (b), and 4, paragraph (g), whichever is later.

Subd. 6. **Program standards.** The commissioner of human services must establish uniform program standards for services identified in chapter 245D for persons with disabilities and people age 65 and older that reflect the service needs of the populations served. The commissioner must grant licenses according to the provisions of chapter 245A.

Subd. 7. **Applicant and license holder training.** An applicant or license holder that is not enrolled as a Minnesota health care program home and community-based services waiver provider at the time of application must ensure that at least one controlling individual completes a onetime training on the requirements for providing home and community-based services from a qualified source as determined by the commissioner, before a provider is enrolled or license is issued.

**EFFECTIVE DATE.** This section is effective July 1, 2012, except that subdivision 6 is effective January 1, 2013, or when the commissioner receives an appropriation or authorization for the collection of fees under section 245A.10, subdivisions 3, paragraph (b), and 4, paragraph (g), whichever is later.

Sec. 39. **[256B.4913] PAYMENT METHODOLOGIES.**

Subdivision 1. **Application.** The payment methodologies in this section apply to home and community-based services waivers under sections 256B.092 and 256B.49, except that where the particular waiver limits the type, scope, or extent of service provided, the commissioner may not provide that service to an individual subject to that service restriction under this methodology.

Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have the meanings given them, unless the context clearly indicates otherwise.

(b) "Commissioner" means the commissioner of human services.

(c) "Payment" means reimbursement to an eligible provider for services provided to a qualified individual based on an approved service authorization.

Subd. 3. **Applicable services.** Applicable services are those authorized under the state's home and community-based services waivers under sections 256B.092 and 256B.49 including as defined in the federally approved home and community-based services plan:

- (1) adult day care or family adult day services;
- (2) behavioral programming;
- (3) customized living or 24-hour customized living;
- (4) day training and habilitation;
- (5) housing access coordination;
- (6) independent living services;

(7) in-home family supports;

(8) night supervision;

(9) personal support;

(10) prevocational services;

(11) residential care services;

(12) respite services;

(13) structured day services;

(14) supported employment services;

(15) supported living services;

(16) transportation services; and

(17) other services as approved by the federal government in the state home and community-based services plan.

Subd. 4. **Uniform payment methodology.** The commissioner shall determine representative personnel and program-related components to meet the individualized service plan for individuals with disabilities as funded under the state plan for home and community-based services under sections 256B.092 and 256B.49. The commissioner shall use those representative components, along with individualized assessment information, to determine the amount payable to a provider under this section.

Subd. 5. **Payments for individualized unit-based services.** (a) Payments for services priced on a partial hour or hourly unit basis and provided to an individual outside of any day or residential service plan must be calculated as follows unless the services are authorized separately under subdivisions 6 and 7:

(1) Determine the number of units of service used.

(2) Determine the direct staff wages. The personnel hourly wage rate must be based on the 2009 Bureau of Labor Statistics Minnesota-specific rates or rates derived by the commissioner as provided in paragraph (b). This is the direct care rate except for customizations for certain individuals.

(3) For an individual requiring customization under subdivision 8, add the customization rate provided in subdivision 8 to the result of step (2). This is the customized direct care rate.

(4) Take the direct care rate under step (2) or step (3) and increase this amount by the employee and program-related expense factor of 102.7 percent.

(5) Take the rate under step (4) and add \$20 per day for daily respite room and board as authorized and provided. This is the payment rate.

(6) Multiply the result of step (5) by step (1) to establish the payment amount.

(b) If the commissioner derives rates for personnel hourly wages under this paragraph, the commissioner must use the following Direct Care Job Classifications with the Bureau of Labor Statistics job classes. These classes must be aligned with services provided under the home and community-based waiver:

- (1) adult companion;
- (2) behavior program analyst;
- (3) behavior program professional;
- (4) behavior program specialist;
- (5) housing access coordinator;
- (6) in-home family support;
- (7) independent living skills direct service;
- (8) independent living skills professional;
- (9) night supervision;
- (10) personal support;
- (11) respite hourly;
- (12) supported employment job coach;
- (13) supported employment job developer;
- (14) supportive living services;
- (15) extra transportation attendant;
- (16) registered nurse;
- (17) licensed practical nurse;
- (18) direct primary care;
- (19) asleep overnight; and
- (20) supervisor.

(c) The commissioner shall revise the wage rates under paragraph (a), clause (2), in the manner provided in subdivision 10.

**Subd. 6. Payments for day programs.** (a) Payments for services with day programs including adult day care, day treatment and habilitation, prevocational services, and structured day services must be calculated as follows unless the services are authorized separately under subdivisions 5 and 7:

(1) Determine the number of units of service used.

(2) Determine the direct staff wages. The personnel hourly wage rate must be based on the 2009 Bureau of Labor Statistics Minnesota-specific rates or rates derived by the commissioner as provided in paragraph (b). This is the direct care rate except for customizations for certain individuals.

(3) For an individual requiring customization under subdivision 8, add the customization rate provided in subdivision 8 to the result of step (2). This is the customized direct care rate.

(4) Take the direct care rate under step (2) or step (3) and increase this amount by the employee and program-related expense factor of 108.8 percent, with consideration of staffing to meet individual needs and utilization.

(5) To the result of step (4) add the facility reasonable use rate of \$8.30 per week, with consideration of staffing ratios to meet individual needs and utilization.

(6) To the result of step (5) add reimbursement for meals authorized and provided in conjunction with adult day care services. This is the payment rate. For bathing services provided in conjunction with adult day care services, the payment rate is \$7.01 per 15-minute unit per bath.

(7) Multiply the result of step (6) by step (1) to establish the payment amount.

(b) If the commissioner derives rates for personnel hourly wages under this paragraph, the commissioner must use the following Direct Care Job Classification with Bureau of Labor Standards job classes. These classes must be aligned with services provided under the home and community-based services waiver:

(1) registered nurse;

(2) licensed practical nurse; and

(3) direct primary care.

(c) The commissioner shall revise the wage rates under paragraph (a), clause (2), in the manner provided in subdivision 10.

**Subd. 7. Payments for residential services.** (a) Payments for services in residential settings including supported living services, foster care, residential care, customized living, and 24-hour customized living subject to limitation to settings registered or licensed for five or fewer individuals must be calculated as follows unless the services are authorized separately under subdivisions 5 and 6:

(1) Determine the number of units of service used.

(2) Determine the direct staff wages. The personnel hourly wage rate must be based on the 2009 Bureau of Labor Statistics Minnesota-specific rates or rates derived by the commissioner as provided in paragraph (b). This is the direct care rate except for customizations for certain individuals.

(3) For an individual requiring customization under subdivision 8, add the customization rate provided in subdivision 8 to the result of step (2). This is the customized direct care rate.

(4) Except for a family foster care setting subject to step (5), take the direct care cost under step (2) or step (3) and increase this amount by the employee and program-related expense factor of 61.8 percent.

(5) For family foster care settings, take the direct care cost under step (2) or step (3) and increase this amount by the employee and program-related expense factor of 38.3 percent.

(6) To the result of step (4) or step (5) add a value of \$2,179 per year adjusted to a weekly unit.

(7) To the result of step (6) add individual waiver transportation, if provided, at \$1,680 or \$4,290 annually if customized for full size adapted transportation. This is the payment rate.

(8) Multiply the result of step (7) by step (1) to establish the payment amount.

(b) If the commissioner derives rates for personnel hourly wages under this paragraph, the commissioner must use the following Direct Care Job Classifications with the Bureau of Labor Statistics job classes. These classes must be aligned with services provided under the home and community-based waiver:

(1) licensed practical nurse;

(2) registered nurse;

(3) direct primary care;

(4) asleep overnight; and

(5) supervisor.

(c) The commissioner shall revise the wage rates under paragraph (a), clause (2), in the manner provided in subdivision 10.

(d) For customized living settings registered for six or more, the commissioner shall use service planning results from the customized living tool to determine the customized living payment to be used beginning January 1, 2013. The commissioner shall provide notice of that payment rate under subdivision 10. By January 15, 2014, the commissioner shall provide an evaluation of the implications of the rate on service provision to the legislative committees with jurisdiction over human services.

**Subd. 8. Customization of rates for individuals.** (a) For persons determined to have higher needs based on assessment of medical, mental health, or behavior issues, or as being deaf/hard-of-hearing, the direct care costs in subdivisions 5 to 7 must be increased by an adjustment factor prior to calculating the price under the respective subdivision.

(b) The customization rate with respect to medical, mental health, and behavior issues shall be \$2.38 per authorized hour for clients who meet the respective criteria as determined by the commissioner.

(c) The customization rate with respect to deaf/hard-of-hearing persons shall be \$9.70 per hour for clients who meet the respective criteria as determined by the commissioner.

**Subd. 9. Payments for transportation.** (a) Transportation payments must be calculated according to clauses (1) to (5).

(1) Determine the number of individual and shared trips authorized.

(2) Determine the distance and whether the individual requires a lift.

(3) For an individual trip payment take the constant trip value of \$2.52 and add a distance rate amount of payment of:

(i) 50 cents per mile for five miles for distances within ten miles;

(ii) 50 cents per mile for 15.5 miles for distances more than ten and up to 20 miles;

(iii) 50 cents per mile for 35.5 miles for distances more than 20 and up to 50 miles; and

(iv) 50 cents per mile for 51 miles for distances more than 50 miles.

(4) For shared trip payments, take the constant trip value of \$2.52 and add one-sixth of the distance rate payment amounts provided for in paragraph (a), clause (3).

(5) For a trip payment requiring a lift, add 93 cents per mile to the distance rate calculation in paragraph (a), clauses (3) and (4).

(b) The commissioner shall require that the purchase of transportation services be cost-effective and be limited to market rates where the transportation mode is generally available and accessible.

Subd. 10. **Updating or changing payment values.** (a) The commissioner shall develop and implement uniform procedures to refine terms and update or adjust values used to calculate payment rates in this section. For calendar year 2013, the commissioner shall use the values, terms, and procedures provided in this section as revised to reflect the results of staffing and service utilization findings under subdivision 11.

(b) The commissioner must update the factors and values described in this section on January 1 of every second year subsequent to January 1, 2013, and provide notice of the update by October 1 of the prior year.

(c) A commissioner's notice must be made available October 1 of each year starting October 1, 2012, and shall contain information detailing: calculation values including derived wage rates and related employee and administrative factors; service utilization; and, in even-numbered years, information on adjustments to be made to calculation values and the timing of those adjustments.

(d) By November 1, 2012, the commissioner shall report to the legislative committees with jurisdiction over disability waiver policy and budget on the operation and management of the disability waiver rates-setting system, the results of the service utilization research under subdivision 11, paragraph (a), and the implications of those results for providers, provider types and applicable services, counties and tribes, and individuals with disabilities. With respect to the procedure developed under subdivision 11, paragraph (b), the report shall include a description of the procedure and the expected impact of the procedure on payments to providers individually and grouped by the applicable services listed in subdivision 3.

Subd. 11. **Waiver rates management system.** (a) The rates management system tool shall be used to determine the rate for an individual eligible under section 256B.092 or 256B.49. Beginning February 2012, the system shall be used as a guide for research into service utilization in calendar year 2012 to inform factor values for payments to be made in 2013. Effective January 1, 2013, the system must be used to determine payment rates for home and community-based services and shall be the basis for authorizing services except as provided under paragraphs (b) to (e). Paragraphs (b) to (e) apply to payments made in calendar years 2013 and 2014.

(b) By October 1, 2012, the commissioner shall develop a procedure for uniformly adjusting individualized payment rates, subject to accommodation under this section, to allow for higher or lower reimbursements for providers when equivalent individualized rates in effect as of October 1, 2012, with respect to the service, are more than five percent higher or lower than the payments provided under section 256B.4913.

(c) For payment rates in effect for 2013 and 2014, if the payment rates established under section 256B.4913 are within five percent of the historic individual rate for calendar year 2013 and subsequently calendar year 2014, the payment rate shall be the authorization rate.

(d) For payment rates in effect for 2013 and 2014, when a historic rate is above the five percent range of the payment rates established under section 256B.4913, the county or tribe shall increase the payment to providers to five percent below the historic rate.

(e) For payment rates in effect for 2013 and 2014, when a historic rate is below the five percent range of the payment rates established under section 256B.4913, the county or tribe shall decrease the payment to providers to five percent above the historic rate.

(f) For calendar year 2015, all payment rates established under section 256B.4913 shall be the authorization rates.

Subd. 12. **Exceptions.** In a format prescribed by the commissioner, lead agencies must identify individuals with exceptional needs that cannot be met under the disability waiver rate system. The commissioner shall use that information to evaluate and, if necessary, design an alternative payment structure for those individuals.

Subd. 13. **Shared service limits.** The commissioner retains authority to limit the number of people that share waiver and day services. Individualized payment structures and methodologies established by the commissioner under section 256B.4912 must reflect the option to share services within the limits established by the commissioner.

Subd. 14. **Payment implementation.** Upon implementation of the payment methodologies under this section, those payment rates supersede rates established in county contracts for recipients receiving waiver services under sections 256B.092 and 256B.49.

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

Sec. 40. Minnesota Statutes 2010, section 256B.501, subdivision 4b, is amended to read:

Subd. 4b. **Waiver rates and group residential housing rates.** (a) The average daily reimbursement rates established by the commissioner for waived services shall be adjusted to include the additional costs of services eligible for waiver funding under title XIX of the Social Security Act and for which there is no group residential housing payment available as a result of the payment limitations set forth in section 256I.05, subdivision 10. The adjustment to the waiver rates shall be based on county reports of service costs that are no longer eligible for group residential housing payments. No adjustment shall be made for any amount of reported payments that prior to July 1, 1992, exceeded the group residential housing rate limits established in section 256I.05 and were reimbursed through county funds.

(b) This subdivision expires January 1, 2013.

Sec. 41. Minnesota Statutes 2010, section 256B.5013, subdivision 1, is amended to read:

Subdivision 1. **Variable rate adjustments.** (a) For rate years beginning on or after October 1, 2000, when there is a documented increase in the needs of a current ICF/MR recipient, the county of financial responsibility may recommend a variable rate to enable the facility to meet the individual's increased needs. ~~Variable rate adjustments made under this subdivision replace payments for persons with special needs under section 256B.501, subdivision 8, and payments for persons with special needs for crisis intervention services under section 256B.501, subdivision 8a.~~ Effective July 1, 2003, facilities with a base rate above the 50th percentile of the statewide average reimbursement rate for a Class A facility or Class B facility, whichever matches the facility licensure, are not eligible for a variable

rate adjustment. Variable rate adjustments may not exceed a 12-month period, except when approved for purposes established in paragraph (b), clause (1). Variable rate adjustments approved solely on the basis of changes on a developmental disabilities screening document will end June 30, 2002.

(b) A variable rate may be recommended by the county of financial responsibility for increased needs in the following situations:

(1) a need for resources due to an individual's full or partial retirement from participation in a day training and habilitation service when the individual: (i) has reached the age of 65 or has a change in health condition that makes it difficult for the person to participate in day training and habilitation services over an extended period of time because it is medically contraindicated; and (ii) has expressed a desire for change through the developmental disability screening process under section 256B.092;

(2) a need for additional resources for intensive short-term programming which is necessary prior to an individual's discharge to a less restrictive, more integrated setting;

(3) a demonstrated medical need that significantly impacts the type or amount of services needed by the individual; or

(4) a demonstrated behavioral need that significantly impacts the type or amount of services needed by the individual.

(c) The county of financial responsibility must justify the purpose, the projected length of time, and the additional funding needed for the facility to meet the needs of the individual.

(d) The facility shall provide an annual report to the county case manager on the use of the variable rate funds and the status of the individual on whose behalf the funds were approved. The county case manager will forward the facility's report with a recommendation to the commissioner to approve or disapprove a continuation of the variable rate.

(e) Funds made available through the variable rate process that are not used by the facility to meet the needs of the individual for whom they were approved shall be returned to the state.

Sec. 42. **REVISOR'S INSTRUCTION.**

In Minnesota Statutes, sections 245B.02, 245B.06, 252.40, 252.41, 256B.038, 256B.0918, 256B.5015, 256B.765, and 604A.33, the revisor of statutes shall delete "sections 252.40 to 252.46" and replace it with "sections 252.41 to 252.46."

**EFFECTIVE DATE.** This section is effective January 1, 2013.

ARTICLE 2  
PAYMENT RATE-SETTING METHODOLOGIES

Section 1. Minnesota Statutes 2010, section 256B.0911, is amended by adding a subdivision to read:

**Subd. 10. Disability waived services assessment requirements.** The commissioner of human services shall establish an assessment methodology to determine reimbursement classifications based upon each individual's assessed needs for services reimbursed under section 256B.4913.

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

(1) "high medical needs" means complex health-related needs that require on-site medical attention and are specified in the coordinated service and support plan;

(2) "high behavioral needs" means a history of observable behavior that deviates from social norms as defined and counted in the assessment that require comprehensive training in behavior management, behavior programming, de-escalation techniques, or medication management training for behavior medications. Examples of participant needs include, but are not limited to, a participant at risk of or with a history of:

(i) elopement, defined as when a patient or resident who is cognitively, physically, mentally, emotionally, or chemically impaired wanders away, walks away, runs away, escapes, or otherwise leaves a caregiving facility or environment unsupervised, unnoticed, or prior to their scheduled discharge; or

(ii) serious harm to self or others;

(3) "high mental health needs" means a history of a mental disorder, diagnosed by a physician and confirmed in the assessment, that requires constant staff oversight without which the consequences of the participant's behaviors are severe. The management of these needs requires comprehensive training in mental health issues, dual diagnosis, and medication management training. This means a current diagnosis of severe and persistent mental illness or severe emotional disturbance that manifests itself through one of the following:

(i) serious harm to self or others; or

(ii) other extreme behaviors that interfere with major life activities; and

(4) "deaf or hard-of-hearing" means a loss of hearing diagnosed by a physician and confirmed in the assessment that requires staff proficient in one or more of the following to communicate:

(i) American sign language;

(ii) tactile interpretation; or

(iii) other sign language.

(b) The commissioner shall ensure that:

(1) the assessment includes a full and accurate accounting of each individual's need for supports;

(2) the results of the methodology for each individual are statistically valid and reliable, and for each individual's result, there is a statistically significant level of interrater reliability; and

(3) the assessment determines if an individual fits the definitions of high medical needs, high behavioral needs, high mental health needs, or deaf or hard-of-hearing.

(c) The assessment methodology must be completed prior to the implementation of any changes to rates determined under section 246B.4913.

(d) Any individual may appeal the results of the individual's assessment as outlined in section 256.045.

(e) The commissioner shall adopt rules under section 14.05 to implement this methodology.

Sec. 2. Minnesota Statutes 2010, section 256B.0916, subdivision 2, is amended to read:

Subd. 2. **Distribution of funds; partnerships.** (a) Beginning with fiscal year 2000, the commissioner shall distribute all funding available for home and community-based waiver services for persons with developmental disabilities to individual counties or to groups of counties that form partnerships to jointly plan, administer, and authorize funding for eligible individuals. The commissioner shall encourage counties to form partnerships that have a sufficient number of recipients and funding to adequately manage the risk and maximize use of available resources.

(b) Counties must submit a request for funds and a plan for administering the program as required by the commissioner. The plan must identify the number of clients to be served, their ages, and their priority listing based on:

(1) requirements in Minnesota Rules, part 9525.1880; and

(2) statewide priorities identified in section 256B.092, subdivision 12.

The plan must also identify changes made to improve services to eligible persons and to improve program management.

(c) In allocating resources to counties, priority must be given to groups of counties that form partnerships to jointly plan, administer, and authorize funding for eligible individuals and to counties determined by the commissioner to have sufficient waiver capacity to maximize resource use.

(d) Within 30 days after receiving the county request for funds and plans, the commissioner shall provide a written response to the plan that includes the level of resources available to serve additional persons.

(e) Counties are eligible to receive medical assistance administrative reimbursement for administrative costs under criteria established by the commissioner.

(f) Upon implementation of rate methodologies developed under section 256B.4913, the commissioner shall adjust allocations to local agencies for home and community-based waived service allocations to reflect the total amount of spending for all recipients with disabilities in their respective counties in need of the level of care provided in an intermediate care facility for individuals with developmental disabilities, a nursing facility, or a hospital as determined by the methodology in section 256B.4913.

Sec. 3. Minnesota Statutes 2010, section 256B.092, subdivision 4, is amended to read:

Subd. 4. **Home and community-based services for developmental disabilities.** (a) The commissioner shall make payments to approved vendors participating in the medical assistance program to pay costs of providing home and community-based services, including case management service activities provided as an approved home and community-based service, to medical assistance eligible persons with developmental disabilities who have been screened under subdivision 7 and according to federal requirements. Federal requirements include those services and limitations included in the federally approved application for home and community-based services for persons with developmental disabilities and subsequent amendments.

(b) Effective July 1, 1995, contingent upon federal approval and state appropriations made available for this purpose, and in conjunction with Laws 1995, chapter 207, article 8, section 40, the commissioner of human services shall allocate resources to county agencies for home and community-based waived services for persons with developmental disabilities authorized but not receiving those services as of June 30, 1995, based upon the average resource need of persons with similar functional characteristics. To ensure service continuity for service recipients receiving home and community-based waived services for persons with developmental disabilities prior to July 1, 1995, the commissioner shall make available to the county of financial responsibility home and community-based waived services resources based upon fiscal year 1995 authorized levels.

(c) Home and community-based resources for all recipients shall be managed by ~~the county of financial responsibility within an allowable reimbursement average established for each county.~~ Payments for home and community-based services provided to individual recipients shall not exceed amounts authorized by the county of financial responsibility. For specifically identified former residents of nursing facilities, the commissioner shall be responsible for authorizing payments and payment limits under the appropriate home and community-based service program. Payment is available under this subdivision only for persons who, if not provided these services, would require the level of care provided in an intermediate care facility for persons with developmental disabilities.

(d) Resources and payment rates for all recipients of home and community-based services shall remain as negotiated by each county of fiscal responsibility as of January 1, 2012.

(e) Resources and payment rates for recipients of home and community-based services enrolled prior to January 1, 2012, may be adjusted for changes in needs using processes by county agencies established as of January 1, 2012.

(f) Any new recipients of home and community-based services after January 1, 2012, shall have resources managed by the county using the process in place in each county as of January 1, 2012.

(g) Counties may not implement changes to resources for individuals under section 256B.4913, until the implementation of a statistically valid and reliable process for assessing each individual's needs under section 256B.0911, subdivision 10.

Sec. 4. Minnesota Statutes 2010, section 256B.49, subdivision 17, is amended to read:

Subd. 17. **Cost of services and supports.** (a) The commissioner shall ensure that the average per capita expenditures estimated in any fiscal year for home and community-based waiver recipients does not exceed the average per capita expenditures that would have been made to provide institutional services for recipients in the absence of the waiver.

~~(b) The commissioner shall implement on January 1, 2002, one or more aggregate, need based methods for allocating to local agencies the home and community-based waived service resources available to support recipients with disabilities in need of the level of care provided in a nursing facility or a hospital. Upon implementation of rate methodologies developed under section 256B.4913, the commissioner shall adjust allocations to local agencies for home and community-based waived service allocations to reflect the total amount of spending for all recipients with disabilities in their respective counties in need of the level of care provided in an intermediate care facility for individuals with developmental disabilities, a nursing facility, or a hospital as determined by the methodology in section 256B.4913:~~

~~(1) the commissioner shall set each county's allocation to include resources for the total amount of spending for each respective county based on the total number of individuals estimated to be served multiplied by each individual's service rate determined under section 256B.4913; and~~

~~(2) if an individual relocates from one county to another within a calendar year, the commissioner shall adjust county allocations to reflect where the individual is receiving services.~~

~~(c) Until the allocation method described in paragraph (b) is implemented, the commissioner shall allocate resources to single counties and county partnerships in a manner that reflects consideration of:~~

- ~~(1) an incentive-based payment process for achieving outcomes;~~
- ~~(2) the need for a state-level risk pool;~~

(3) the need for retention of management responsibility at the state agency level; and

(4) a phase-in strategy as appropriate.

~~(c) Until the allocation methods described in paragraph (b) are implemented, the annual allowable reimbursement level of home and community based waiver services shall be the greater of:~~

~~(1) the statewide average payment amount which the recipient is assigned under the waiver reimbursement system in place on June 30, 2001, modified by the percentage of any provider rate increase appropriated for home and community based services; or~~

~~(2) an amount approved by the commissioner based on the recipient's extraordinary needs that cannot be met within the current allowable reimbursement level. The increased reimbursement level must be necessary to allow the recipient to be discharged from an institution or to prevent imminent placement in an institution. The additional reimbursement may be used to secure environmental modifications; assistive technology and equipment; and increased costs for supervision, training, and support services necessary to address the recipient's extraordinary needs. The commissioner may approve an increased reimbursement level for up to one year of the recipient's relocation from an institution or up to six months of a determination that a current waiver recipient is at imminent risk of being placed in an institution.~~

(d) Beginning July 1, 2001, medically necessary private duty nursing services will be authorized under this section as complex and regular care according to sections 256B.0651 to 256B.0656 and 256B.0659. The rate established by the commissioner for registered nurse or licensed practical nurse services under any home and community-based waiver as of January 1, 2001, shall not be reduced.

(e) Notwithstanding section 252.28, subdivision 3, paragraph (d), if the 2009 legislature adopts a rate reduction that impacts payment to providers of adult foster care services, the commissioner may issue adult foster care licenses that permit a capacity of five adults. The application for a five-bed license must meet the requirements of section 245A.11, subdivision 2a. Prior to admission of the fifth recipient of adult foster care services, the county must negotiate a revised per diem rate for room and board and waiver services that reflects the legislated rate reduction and results in an overall average per diem reduction for all foster care recipients in that home. The revised per diem must allow the provider to maintain, as much as possible, the level of services or enhanced services provided in the residence, while mitigating the losses of the legislated rate reduction.

Sec. 5. Minnesota Statutes 2010, section 256B.4912, is amended to read:

**256B.4912 HOME AND COMMUNITY-BASED WAIVERS; PROVIDERS AND PAYMENT.**

Subdivision 1. **Provider qualifications.** (a) For the home and community-based waivers providing services to seniors and individuals with disabilities, the commissioner shall establish:

(1) agreements with enrolled waiver service providers to ensure providers meet ~~qualifications defined in the waiver plans~~ Minnesota health care program requirements;

(2) regular reviews of provider qualifications, including requests of proof of documentation; and

(3) processes to gather the necessary information to determine provider qualifications.

~~By July 2010~~ (b) Beginning July 2011, staff that provide direct contact, ~~as defined in section 245C.02, subdivision 11, that are employees of waiver service providers for services specified in the federally approved waiver plans~~ must meet the requirements of chapter 245C prior to providing waiver services and as part of ongoing enrollment. Upon federal approval, this requirement must also apply to consumer-directed community supports.

(c) Upon enactment of section 256B.4913, providers of waiver services must reenroll with the state. County and tribal agency contracts existing prior to January 1, 2013, are not effective beginning January 1, 2013.

Subd. 2. **Rate-setting methodologies.** (a) The commissioner shall establish statewide prospective rate-setting methodologies that meet federal waiver requirements for home and community-based waiver services for individuals with disabilities. The rate-setting methodologies must abide by the principles of transparency and equitability across the state. The methodologies must involve a uniform process of structuring rates for each service and must promote quality and participant choice.

(b) No changes in existing provider rates are effective until the development and implementation of an assessment methodology for individuals assessed under section 256B.0911, subdivision 10, that provides a statistically reliable and valid means for assessing each individual's support needs.

Subd. 3. **Payment rate criteria.** (a) The payment structures and methodologies under this section shall reflect the payment rate criteria in paragraphs (b) and (c).

(b) Payment rates shall be determined according to reasonable, ordinary, and necessary costs that accurately reflect the actual cost of service delivery.

(c) Payment rates shall be sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that care and services are available to the general population in the geographic area as required by section 1902(a)(30)(A) of the Social Security Act.

(d) The commissioner must not reimburse:

(1) unauthorized service delivery;

(2) services provided under a receipt of a special grant;

(3) services provided under contract to a local school district;

(4) extended employment services under Minnesota Rules, parts 3300.2005 to 3300.3100; or vocational rehabilitation services provided under the federal Rehabilitation Act, United States Code, title I, section 110, as amended; or United States Code, title VI, part C, and not through use of medical assistance or county social service funds; or

(5) services provided to a client by a licensed medical, therapeutic, or rehabilitation practitioner, or any other vendor of medical care that are billed separately on a fee-for-service basis.

(e) Payment rates are set prospectively and may not be enforced retroactively.

Sec. 6. **[256B.4913] HOME AND COMMUNITY-BASED WAIVERS; RATE-SETTING METHODOLOGIES.**

Subdivision 1. **Applicable services.** "Applicable services" are those authorized under the state's home and community-based waivers under sections 256B.092 and 256B.49, including those defined in the federally approved home and community-based services plan, as follows:

(1) adult day care;

(2) family adult day services;

- (3) day training and habilitation;
- (4) prevocational services;
- (5) structured day services;
- (6) supported employment services;
- (7) behavioral programming;
- (8) housing access coordination;
- (9) independent living services;
- (10) in-home family supports;
- (11) night supervision;
- (12) personal support;
- (13) supported living services;
- (14) transportation services;
- (15) respite services;
- (16) residential services; or
- (17) any other services approved as part of the state's home and community-based services plan.

Subd. 2. **Base wage index.** (a) The base wage index is established to determine staffing costs associated with providing services to individuals receiving home and community-based services.

(b) The base wage shall be calculated using a composite of wages taken from job descriptions and standard occupational classification (SOC) codes from the Bureau of Labor Statistics, as defined in the most recent edition of the Occupational Outlook Handbook. The base wage index shall be calculated as follows:

(1) for day services, 20 percent of the median wage for nursing aide (SOC code 31-1012); 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 60 percent of the median wage for social and human services workers (SOC code 21-1093);

(2) for residential direct care staff, 20 percent of the median wage for home health aide (SOC code 31-1011); 20 percent of the median wage for personal and home health aide (SOC code 39-9021); 20 percent of the median wage for nursing aide (SOC code 31-1012); 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 20 percent of the median wage for social and human services aide (SOC code 21-1093);

(3) for residential awake overnight staff, 20 percent of the median wage for home health aide (SOC code 31-1011); 20 percent of the median wage for personal and home health aide (SOC code 39-9021); 20 percent of the median wage for nursing aide (SOC code 31-1012); 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 20 percent of the median wage for social and human services aide (SOC code 21-1093);

(4) for residential asleep overnight staff, the wage will be \$7.66 per hour, adjusted annually by the Consumer Price Index for urban wage earners;

(5) for supported living services hourly staff, 20 percent of the median wage for nursing aide (SOC code 31-1012); 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 60 percent of the median wage for social and human services aide (SOC code 21-1093);

(6) for behavior programming aide staff, 20 percent of the median wage for nursing aide (SOC code 31-1012); 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 60 percent of the median wage for social and human services aide (SOC code 21-1093);

(7) for behavioral programming professional staff, 100 percent of the median wage for clinical counseling and school psychologist (SOC code 19-3031);

(8) for supported employment job coach staff, 20 percent of the median wage for nursing aide (SOC code 31-1012); 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 60 percent of the median wage for social and human services aide (SOC code 21-1093);

(9) for supported employment job developer staff, 50 percent of the median wage for rehabilitation counselor (SOC code 21-1015); and 50 percent of the median wage for social and human services aide (SOC code 21-1093);

(10) for in-home family support, 20 percent of the median wage for nursing aide (SOC code 31-1012); 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 60 percent of the median wage for social and human services aide (SOC code 21-1093);

(11) for housing access coordination staff, 50 percent of the median wage for community and social services specialist (SOC code 21-1099); and 50 percent of the median wage for social and human services aide (SOC code 21-1093);

(12) for night supervision staff, 20 percent of the median wage for home health aide (SOC code 31-1011); 20 percent of the median wage for personal and home health aide (SOC code 39-9021); 20 percent of the median wage for nursing aide (SOC code 31-1012); 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 20 percent of the median wage for social and human services aide (SOC code 21-1093);

(13) for respite staff, 50 percent of the median wage for personal and home care aide (SOC code 39-9021); and 50 percent of the median wage for nursing aides, orderlies, and attendants (SOC code 31-1012);

(14) for personal support staff, 50 percent of the median wage for personal and home care aide (SOC code 39-9021); and 50 percent of the median wage for nursing aides, orderlies, and attendants (SOC code 31-1012);

(15) for transportation staff, 20 percent of the median wage for nursing aide (SOC code 31-1012); 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 60 percent of the median wage for social and human services aide (SOC code 21-1093);

(16) for independent living skills staff, ten percent of the median wage for nursing aides, orderlies, and attendants (SOC code 31-1012); 30 percent of the median wage for psychiatric technician (SOC code 29-2053); and 60 percent of the median wage for social and human services aide (SOC code 21-1093); and

(17) for supervisory staff, 55 percent of the median wage for medical and health services managers (SOC code 11-9111).

(c) The commissioner shall update the base wage index on an annual basis upon the release of the December 31 data of the most recent year from the Bureau of Labor Statistics and publish the base wage index on July 1 of the beginning of the next fiscal year.

(d) The commissioner shall adjust payment rates for changes in the base wage index on an annual basis for each individual receiving waived services.

(e) The commissioner shall determine the staffing component of each individual's payment rate receiving services under sections 256B.092 and 256B.49 using the base wage index.

**Subd. 3. Payments for residential services.** (a) Payments for services in residential settings include supported living services, foster care, residential care, customized living, and 24-hour customized living.

(b) The separate components of each individual's payment rate for residential services shall be calculated as follows:

(1) for direct supervision, the commissioner shall determine the number of units of service to be delivered utilizing the assessment process in section 256B.0911, subdivision 10. The provider may deliver services using direct staffing or supervision technology:

(i) for direct staff cost:

(A) the commissioner shall determine staff wages for shared staff, individual staffing, and supervision staffing using the base wage index in subdivision 2. The direct care cost is the staff wage multiplied by the number of direct staff hours specified by each individual's support team;

(B) for individuals that qualify for a customization under subdivision 6, add the customization rate provided in subdivision 6 to the base wage amount determined in the direct care cost;

(C) multiply the number of direct staff hours by the staff wage; and

(D) multiply the result of the previous calculation by one plus 9.4 percent;

(ii) for supervision technology cost:

(A) the commissioner shall determine supervision technology wages using the base wage index in subdivision 2. The supervision technology cost is the staff wage multiplied by the number of supervision technology hours specified by each individual's support team;

(B) for individuals that qualify for a customization under subdivision 6, add the customization rate provided in subdivision 6 to the base wage amount determined in the supervision technology cost;

(C) multiply the number of supervision technology hours by the staff wage; and

(D) add the amounts under subitems (B) and (C) to obtain the direct staffing cost;

(iii) add the amounts from items (i) and (ii) to obtain the direct supervision cost;

(2) for employee-related expenses:

(i) the commissioner shall include an adjustment of 10.3 percent for the cost of taxes and workers' compensation;

(ii) the commissioner shall include an adjustment of 16.2 percent for the cost of other benefits, including health insurance, dental insurance, life insurance, short-term disability insurance, long-term disability insurance, vision insurance, retirement, and tuition reimbursement; and

(iii) the total of the two percentages under items (i) and (ii) is the total percentage for employee-related expenses;

(3) for transportation:

(i) the commissioner shall include an amount for the costs of acquiring and maintaining vehicles for the transportation of individuals, as follows: \$1,875 for a standard vehicle; \$3,803 for a full-size adapted van; and \$2,208 for a minivan;

(ii) for individuals requiring individualized customization, the commissioner shall include the number of miles multiplied by \$0.51 per mile for a standard vehicle, \$1.43 for a full-size adapted van, and \$0.61 for a minivan. The amount of miles for customization shall be determined by each individual's support team under section 245A.11, subdivision 8; and

(iii) the total under items (i) and (ii) is the total for transportation;

(4) for client programming and supports:

(i) the commissioner shall add \$2,179 for the cost of client programming and supports; and

(ii) for individuals that had previously received an adjustment to rates under section 256B.501, subdivision 4, the commissioner shall add an amount to reflect the costs of providing services allowable under title XIX of the Social Security Act to obtain the total for client programming and supports;

(5) for support costs:

(i) the commissioner shall include an adjustment of 16.5 percent for standard and general administrative support;

(ii) the commissioner shall include an adjustment of 2.65 percent for program support; and

(iii) the total of the adjustments under items (i) and (ii) is the total percentage for support costs; and

(6) for administrative overhead:

(i) the commissioner shall include an adjustment of 6.58 percent for costs associated with absence overhead;

(ii) the commissioner shall include an adjustment of 3.8 percent for utilization overhead; and

(iii) the total of the adjustments under items (i) and (ii) is the total percentage for administrative overhead.

(c) The total rate shall be calculated using the following steps:

(1) the direct supervision cost multiplied by one plus the total percentage for employee-related expenses;

(2) plus the total for transportation;

(3) plus the total for client programming and supports;

(4) the subtotal of clauses (1) to (3), multiplied by one plus the total percentage for support costs;

(5) the subtotal of clauses (1) to (4), multiplied by one plus the total percentage for administrative overhead; and

(6) divide the total of clause (5) by 365 to obtain the daily rate.

**Subd. 4. Payment for day program services.** (a) Payments for services with day programs include adult day care, family adult day care, day training and habilitation, prevocational services, and structured day services.

(b) The separate components of each individual's payment rate for day program services shall be calculated as follows:

(1) for direct staffing:

(i) the commissioner shall determine the number of units of service to be used and each individual's support ratio utilizing the assessment process in section 256B.0911, subdivision 10;

(ii) the commissioner shall determine staff wages using the base wage index in subdivision 2. The direct care cost is the staff wage multiplied by the number of units of service. The commissioner shall include 4.5 supervisory hours per week for each individual at a staffing ratio of 1:1. Supervisory hours will reduce as ratios increase, but shall not be less than 2.5 hours per week. The number of hours shall be prorated for less than full-day participation;

(iii) for individuals that qualify for a customization under subdivision 6, add the customization rate provided in subdivision 6 to the base wage amount determined in the direct care cost;

(iv) multiply the units of service by the staff wage;

(v) multiply the result of the calculation in item (iv) by 9.4 percent; and

(vi) add the amounts under items (iv) and (v) to obtain the direct staffing cost;

(2) for employee-related expenses:

(i) the commissioner shall include an adjustment of 10.3 percent for the cost of taxes and workers' compensation;

(ii) the commissioner shall include an adjustment of 16.2 percent for the cost of other benefits, including health insurance, dental insurance, life insurance, short-term disability insurance, long-term disability insurance, vision insurance, retirement, and tuition reimbursement; and

(iii) the total of the two percentages under items (i) and (ii) is the total percentage for employee-related expenses;

(3) for transportation:

(i) the commissioner shall determine the number of trips required, as determined under the assessment process in section 256B.0911, subdivision 10;

(ii) the commissioner shall determine the total distance transported from the person's residence to the initial day service destination and whether an individual requires the use of a lift;

(iii) for each trip to and from each individual's residence, the commissioner shall add a value of:

(A) for distances of zero to ten miles, the commissioner shall pay \$7.77 per trip for individuals transported in a vehicle equipped with a wheelchair lift, and \$7 for those who are transported in other vehicles;

(B) for individuals who are transported 11 to 20 miles, the commissioner shall pay \$10.27 per trip for individuals transported in a vehicle equipped with a wheelchair lift, and \$7.87 for those who are transported in other vehicles;

(C) for individuals who are transported 21 to 50 miles, the commissioner shall pay \$15.04 per trip for individuals transported in a vehicle equipped with a wheelchair lift, and \$9.53 for those who are transported in other vehicles; and

(D) for individuals transported 51 or more miles, the commissioner shall pay \$18.74 per trip for individuals transported in a vehicle equipped with a wheelchair lift, and \$10.80 for those who are transported in other vehicles;

(iv) these rates shall apply regardless of whether the person is being transported alone or with others;

(v) the rates identified in paragraph (c) shall be adjusted within 30 days by the commissioner using the same percentage as used by the Internal Revenue Service when adjusting standard mileage rates for business purposes; and

(vi) the rates determined in this clause are the total for transportation;

(4) for program plan and supports, the commissioner shall add 16.6 percent for the cost of program plan and supports;

(5) the commissioner shall include an adjustment of ten percent for the cost of client programming and supports;

(6) for support costs:

(i) the commissioner shall include an adjustment of 16.5 percent for standard and general administrative support;

(ii) the commissioner shall include an adjustment of 2.65 percent for program support;

(iii) the commissioner shall add \$31.69 per week for the facility reasonable-use rate; and

(iv) the total of the adjustments under items (i) to (iii) is the total percentage for support costs; and

(7) for administrative overhead:

(i) the commissioner shall include an adjustment of 6.58 percent for costs associated with absence overhead;

(ii) the commissioner shall include an adjustment of 3.8 percent for utilization overhead; and

(iii) the total of the adjustments under items (i) and (ii) is the total percentage for administrative overhead.

(c) The total rate shall be calculated using the following steps:

(1) the direct staffing cost multiplied by one plus the total percentage for employee-related expenses;

(2) plus the total for transportation;

(3) plus the cost for program plan and supports;

(4) plus the cost for client programming and supports;

(5) the subtotal of clauses (1) to (4), multiplied by one plus the total percentage for support costs;

(6) the subtotal of clauses (1) to (5), multiplied by one plus the total percentage for administrative overhead; and

(7) divide the total in clause (6) by 365 to obtain the daily rate.

**Subd. 5. Payment for individualized services.** (a) Payments for individualized services include supported employment, behavioral programming, housing access coordination, independent living services, in-home family supports, night supervision, personal support, and respite services.

(b) The separate components of each individual's payment rate for individualized services shall be calculated as follows:

(1) for direct staffing:

(i) the commissioner shall determine the number of units of service to be used utilizing the assessment process in section 256B.0911, subdivision 10;

(ii) the commissioner shall determine staff wages for shared staff, individual staffing, and supervision staffing using the base wage index in subdivision 2. The direct care cost is the staff wage multiplied by the number of units of service;

(iii) for individuals that qualify for a customization under subdivision 6, add the customization rate provided in subdivision 6 to the base wage amount determined in the direct care cost;

(iv) multiply the units of service by the staff wage;

(v) multiply the result of the calculation in item (iv) by 9.4 percent; and

(vi) add the amounts under items (iv) and (v) to obtain the direct staffing cost;

(2) for employee-related expenses:

(i) the commissioner shall include an adjustment of 10.3 percent for the cost of taxes and workers' compensation;

(ii) the commissioner shall include an adjustment of 16.2 percent for the cost of other benefits, including health insurance, dental insurance, life insurance, short-term disability insurance, long-term disability insurance, vision insurance, retirement, and tuition reimbursement; and

(iii) the total of the percentages under items (i) and (ii) is the total percentage for employee-related expenses;

(3) for program plan and supports, the commissioner shall add 16.6 percent for the cost of program plan supports;

(4) for client programming and supports, the commissioner shall include an adjustment of ten percent for the cost of client programming and supports; and

(5) for support costs:

(i) the commissioner shall include an adjustment of 16.5 percent for standard and general administrative support;

(ii) the commissioner shall include an adjustment of 2.65 percent for program support; and

(iii) the total of the adjustments under the two previous items is the total percentage for support costs; and

(6) for administrative overhead:

(i) the commissioner shall include an adjustment of 6.58 percent for costs associated with absence overhead;

(ii) the commissioner shall include an adjustment of 3.8 percent for utilization overhead; and

(iii) the total of the adjustments under items (i) and (ii) is the total percentage for administrative overhead.

(c) The total rate shall be calculated using the following steps:

(1) the direct staffing cost multiplied by one plus the total percentage for employee-related expenses;

(2) plus the cost for program plan supports;

(3) plus the cost for client programming and supports;

(4) the subtotal of clauses (1) to (3), multiplied by one plus the total percentage for support costs;

(5) the subtotal of clauses (1) to (4), multiplied by one plus the total percentage for administrative overhead; and

(6) adjust the total in clause (5) to reflect the hourly units of service that will be provided to the individual per year, and divide by four to obtain the 15-minute rate.

**Subd. 6. Customization of rates for individuals.** For persons determined to have higher needs based on their assessed needs, as determined by the process in section 256B.0911, subdivision 10, those individuals will receive an increase in staffing wages. The customization add-on shall be:

(1) for individuals assessed as having high medical needs, \$1.79 per authorized hour;

(2) for individuals assessed as having high behavioral needs, \$2.01 per authorized hour;

(3) for individuals assessed as having high mental health needs, \$2.01 per authorized hour; and

(4) for individuals assessed as being deaf or hard-of-hearing, \$1.79 per authorized hour.

**Subd. 7. Rate exception process.** (a) A variance from rates determined in subdivisions 3, 4, and 5 may be granted by the lead agency when:

(1) an individual is set to be discharged; and

(2) the rate determined is inadequate to meet the health and safety needs of that individual.

(b) The lead agency shall have 30 calendar days from the date of the receipt of the complete request from the vendor for a rate variance to accept or reject it, or the request shall be deemed to have been granted. The lead agency shall state in writing the specific objections to the request and the reasons for its rejection.

(c) If the lead agency rejects the request from the vendor for a rate variance, the vendor may appeal the decision to the commissioner of human services. The commissioner shall have 30 calendar days to consider the appeal. The commissioner shall state in writing the specific objections to the request and the reasons for its rejection of the appeal.

(d) The commissioner shall collect information annually and report on the number of exceptions granted under this subdivision.

**Subd. 8. Cost neutrality adjustment.** (a) The commissioner shall calculate the spending for all long-term care waived services under the payments as defined in subdivisions 3, 4, and 5 for each group of service. These groups are defined as:

(1) residential services, including corporate foster care, family foster care, residential care, supported living services, customized living, and 24-hour customized living;

(2) day program services, including adult day care, day training and habilitation, prevocational services, and structured day services;

(3) hourly services with programming, including in-home family support, independent living services, supported living services, supported employment, behavior programming, and housing access coordination;

(4) hourly services without programming, including respite, personal support, and night supervision; and

(5) individualized services, including 24-hour emergency assistance, assistive technology, caregiver training and education, consumer education and training, crisis respite, family counseling and training, independent living service therapies, live-in caregiver expenses, modification and adaptations, specialist services, specialized supplies and equipment, transitional, and transportation services.

(b) If spending for each group of service does not equal the total spending under current law, the commissioner shall apply an across-the-board adjustment to payment rates to align the levels of overall spending under current law.

**Subd. 9. Budget neutrality adjustment.** (a) The commissioner shall calculate the total spending for all long-term care waived services under the payments as defined in subdivisions 3, 4, and 5, and total spending under current law for the fiscal year beginning July 1, 2013. If total spending under subdivisions 3, 4, and 5 is projected to be higher than under current law, the commissioner shall adjust the rate by whatever percentage is needed to reduce aggregate spending to the same level as projected under current law.

(b) The commissioner shall make any future across-the-board adjustment to provider rates in this portion of the rate calculation.

**Subd. 10. Individual rate notification.** Upon request, the commissioner shall make available the rate calculation for each individual to any member of the individual's support team under subdivisions 3, 4, and 5, and section 245A.11, subdivision 8, prior to any cost or budget neutrality adjustments.

**Subd. 11. Rulemaking authority.** The commissioner shall adopt rules under section 14.05 to address the implementation of the payment methodology system. These rules will address processes for detailing the implementation of this payment methodology system, including the roles and responsibilities of the department, lead agencies, and service providers.

**Subd. 12. Rate review and adjustments.** (a) If an individual's needs change, the commissioner shall reassess that individual's needs under the process as outlined in section 256B.0911, subdivision 10.

(b) If there is a material change to an individual's existing services, the commissioner shall reassess that individual's needs under the assessment process outlined in section 256B.0911, subdivision 10.

Subd. 13. **Reports and data.** Twelve months prior to final implementation, the commissioner shall:

(1) generate and publish provider rates calculated under this section;

(2) provide an analysis of the impact of the rate methodology system to the legislature that includes:

(i) the average individual rate for residential services and day training and habilitation services under the new and previous methodologies; and

(ii) the projected supply of service providers prior to and after implementation.

Sec. 7. **EFFECTIVE DATE; APPLICATION.**

Sections 1 to 6 are effective the day following final enactment. The rate-setting methodologies in section 6 apply on January 1, 2013, following the implementation of the assessment methodology under Minnesota Statutes, section 256B.0911, subdivision 10."

Delete the title and insert:

"A bill for an act relating to human services; amending continuing care policy provisions; making changes to disability services and licensing provisions; establishing home and community-based services standards; establishing payment methodologies; requiring a report; providing rulemaking authority; amending Minnesota Statutes 2010, sections 245A.03, subdivision 2; 245A.041, by adding subdivisions; 245A.085; 245B.02, subdivision 10, by adding a subdivision; 245B.04, subdivisions 1, 2, 3; 245B.05, subdivision 1; 245B.07, subdivisions 5, 9, 10, by adding a subdivision; 252.40; 252.41, subdivision 3; 252.42; 252.43; 252.44; 252.45; 252.451, subdivisions 2, 5; 252.46, subdivision 1a; 256B.0911, by adding a subdivision; 256B.0916, subdivision 2; 256B.092, subdivision 4; 256B.49, subdivision 17; 256B.4912; 256B.501, subdivision 4b; 256B.5013, subdivision 1; Minnesota Statutes 2011 Supplement, section 256B.49, subdivision 16a; proposing coding for new law in Minnesota Statutes, chapters 245A; 256B; proposing coding for new law as Minnesota Statutes, chapter 245D."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Health and Human Services Finance.

The report was adopted.

Beard from the Committee on Transportation Policy and Finance to which was referred:

H. F. No. 2517, A bill for an act relating to public safety; clarifying placement of certain motor vehicle license plates; amending Minnesota Statutes 2010, section 169.79, subdivision 6.

Reported the same back with the following amendments:

Page 1, line 6, before "If" insert "(a)"

Page 1, after line 11, insert:

"(b) A person who violates this subdivision is subject to a \$20 fine.

**EFFECTIVE DATE.** This section is effective August 1, 2012, and applies to violations committed on or after that date.

Sec. 2. Minnesota Statutes 2011 Supplement, section 357.021, subdivision 6, is amended to read:

Subd. 6. **Surcharges on criminal and traffic offenders.** (a) Except as provided in this paragraph, the court shall impose and the court administrator shall collect a \$75 surcharge on every person convicted of any felony, gross misdemeanor, misdemeanor, or petty misdemeanor offense, other than a violation of a law or ordinance relating to vehicle parking, for which there shall be a \$12 surcharge. When a defendant is convicted of more than one offense in a case, the surcharge shall be imposed only once in that case. In the Second Judicial District, the court shall impose, and the court administrator shall collect, an additional \$1 surcharge on every person convicted of any felony, gross misdemeanor, misdemeanor, or petty misdemeanor offense, including a violation of a law or ordinance relating to vehicle parking, if the Ramsey County Board of Commissioners authorizes the \$1 surcharge. The surcharge shall be imposed whether or not the person is sentenced to imprisonment or the sentence is stayed. The surcharge shall not be imposed when a person is convicted of a petty misdemeanor for which no fine is imposed.

(b) If the court fails to impose a surcharge as required by this subdivision, the court administrator shall show the imposition of the surcharge, collect the surcharge, and correct the record.

(c) The court may not waive payment of the surcharge required under this subdivision. Upon a showing of indigency or undue hardship upon the convicted person or the convicted person's immediate family, the sentencing court may authorize payment of the surcharge in installments.

(d) The court administrator or other entity collecting a surcharge shall forward it to the commissioner of management and budget.

(e) If the convicted person is sentenced to imprisonment and has not paid the surcharge before the term of imprisonment begins, the chief executive officer of the correctional facility in which the convicted person is incarcerated shall collect the surcharge from any earnings the inmate accrues from work performed in the facility or while on conditional release. The chief executive officer shall forward the amount collected to the court administrator or other entity collecting the surcharge imposed by the court.

(f) A person who enters a diversion program, continuance without prosecution, continuance for dismissal, or stay of adjudication for a violation of chapter 169 must pay the surcharge described in this subdivision. A surcharge imposed under this paragraph shall be imposed only once per case.

(g) The surcharge does not apply to (1) administrative citations issued pursuant to section 169.999; or (2) a violation under section 169.79, subdivision 6.

**EFFECTIVE DATE.** This section is effective August 1, 2012, and applies to violations committed on or after that date."

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "providing for a penalty;"

Correct the title numbers accordingly

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Judiciary Policy and Finance.

The report was adopted.

Gottwalt from the Committee on Health and Human Services Reform to which was referred:

H. F. No. 2532, A bill for an act relating to health; allowing the electronic prescribing of controlled substances; amending Minnesota Statutes 2010, section 152.11.

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

The report was adopted.

Howes from the Committee on Capital Investment to which was referred:

H. F. No. 2622, A bill for an act relating to capital investment; appropriating money for Bemidji State University; authorizing the sale and issuance of state bonds.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

Section 1. **CAPITAL IMPROVEMENT APPROPRIATIONS.**

The sums shown in the column under "Appropriations" are appropriated from the bond proceeds fund, or another named fund, to the state agencies or officials indicated, to be spend for public purposes. Appropriations of bond proceeds must be spent as authorized by the Minnesota Constitution, article XI, section 5, paragraph (a), to acquire and better public land and buildings and other public improvements of a capital nature or as authorized by the Minnesota Constitution, article XI, section 5, paragraphs (b) to (j), or article XIV. Unless otherwise specified, money appropriated in this act for a capital program or project may be used to pay state agency staff costs that are attributed directly to the capital program or project in accordance with accounting policies adopted by the commissioner of management and budget. Unless otherwise specified, the appropriations in this act are available until the project is completed or abandoned subject to Minnesota Statutes, section 16A.642.

**SUMMARY**

|  |                     |
|--|---------------------|
| <u>University of Minnesota</u>                   | <u>\$39,060,000</u> |
| <u>Minnesota State Colleges and Universities</u> | <u>56,455,000</u>   |
| <u>Minnesota State Academies</u>                 | <u>1,000,000</u>    |
| <u>Perpich Center for Arts Education</u>         | <u>263,000</u>      |
| <u>Natural Resources</u>                         | <u>21,409,000</u>   |
| <u>Pollution Control Agency</u>                  | <u>1,956,000</u>    |

|  |                             |
|--|-----------------------------|
| <u>Board of Water and Soil Resources</u>               | 10,000,000                  |
| <u>Rural Finance Authority</u>                         | 33,000,000                  |
| <u>Zoological Garden</u>                               | 5,000,000                   |
| <u>Administration</u>                                  | 8,000,000                   |
| <u>Amateur Sports</u>                                  | 375,000                     |
| <u>Military Affairs</u>                                | 2,000,000                   |
| <u>Public Safety</u>                                   | 2,000,000                   |
| <u>Transportation</u>                                  | 38,500,000                  |
| <u>Metropolitan Council</u>                            | 8,100,000                   |
| <u>Human Services</u>                                  | 2,500,000                   |
| <u>Veterans Affairs</u>                                | 3,250,000                   |
| <u>Corrections</u>                                     | 14,128,000                  |
| <u>Employment and Economic Development</u>             | 46,285,000                  |
| <u>Public Facilities Authority</u>                     | 23,600,000                  |
| <u>Housing Finance Agency</u>                          | 5,000,000                   |
| <u>Minnesota Historical Society</u>                    | 3,250,000                   |
| <u>Bond Sale Expenses</u>                              | 298,000                     |
| <b><u>TOTAL</u></b>                                    | <b><u>\$325,429,000</u></b> |
| <u>Bond Proceeds Fund (General Fund Debt Service)</u>  | 260,277,000                 |
| <u>Bond Proceeds Fund (User Financed Debt Service)</u> | 45,152,000                  |
| <u>State Transportation Fund</u>                       | 20,000,000                  |

**APPROPRIATIONS**Sec. 2. **UNIVERSITY OF MINNESOTA**

Subdivision 1. **Total Appropriation** **\$39,060,000**

To the Board of Regents of the University of Minnesota for the purposes specified in this section.

Subd. 2. **Higher Education Asset Preservation and Replacement (HEAPR)** **35,000,000**

To be spent in accordance with Minnesota Statutes, section 135A.046.

Subd. 3. **Itasca Biological Station**

**Itasca Facility Improvements** **4,060,000**

To design, construct, furnish, and equip a new technology-rich biological laboratory and classroom facility, and to design, construct, furnish, and equip the renovation of the historic Lakeside Lab and to remove obsolete single-function buildings at the University of Minnesota facility in Itasca State Park.

**Subd. 4. University Share**

Except for Higher Education Asset Preservation and Replacement (HEAPR) under subdivision 2, the appropriations in this section are intended to cover approximately two-thirds of the cost of each project. The remaining costs must be paid from university sources.

**Subd. 5. Unspent Appropriations**

Upon substantial completion of a project authorized in this section and after written notice to the commissioner of management and budget, the Board of Regents must use any money remaining in the appropriation for that project for HEAPR under Minnesota Statutes, section 135A.046. The Board of Regents must report by February 1 of each even-numbered year to the chairs of the house of representatives and senate committees with jurisdiction over capital investment and higher education finance, and to the chairs of the house of representatives Ways and Means Committee and the senate Finance Committee, on how the remaining money has been allocated or spent.

**Sec. 3. MINNESOTA STATE COLLEGES AND UNIVERSITIES****Subdivision 1. Total Appropriation****\$56,455,000**

To the Board of Trustees of the Minnesota State Colleges and Universities for the purposes specified in this section.

**Subd. 2. Higher Education Asset Preservation and Replacement (HEAPR)****20,000,000**

For the purposes specified in Minnesota Statutes, section 135A.046.

**Subd. 3. Bemidji State University****Business Building Addition, Renovation Design, Demolition****3,303,000**

To abate and demolish Maple Hall and Sanford Hall, and to complete design for the renovation of Decker Hall, Hobson Hall, and Memorial Hall into multiuse classrooms and study spaces, including replacing the HVAC system and constructing an addition to Memorial Hall for better accessibility.

**Subd. 4. Minnesota West Community and Technical College, Worthington****Renovation and Addition****4,606,000**

To renovate, furnish, and equip existing classroom and lab spaces and to design, construct, furnish, and equip a classroom, lab, and entryway addition, and replace HVAC systems.

**Subd. 5. Northeast Higher Education District - Itasca Community College**

**Renovation, Addition, and Demolition**

4,549,000

To complete the design of and to renovate, furnish, and equip existing instructional and student services spaces, to design, construct, furnish, and equip an addition with multipurpose classrooms, and to demolish Donovan Hall.

**Subd. 6. Northland Community and Technical College**

**Aviation Maintenance Facility Expansion Design**

300,000

To design the expansion and renovation of the aviation maintenance facilities at Northland Community and Technical College.

**Subd. 7. Ridgewater College, Willmar**

**Technical Instruction Lab Renovation**

13,851,000

To complete the design of and to renovate, furnish, and equip classroom and student service spaces, to replace the HVAC system, to construct, furnish, and equip an updated campus entry, and to demolish the Administration Building.

**Subd. 8. Rochester Community and Technical College**

**Renovation and Addition for Workforce Center Colocation**

3,146,000

To complete the design of and to renovate, furnish, and equip existing Heintz Center space and to design, construct, furnish, and equip an addition to the Heintz Center for the offices and shared spaces and services of the Minnesota Workforce Center - Rochester, and to replace the HVAC system.

**Subd. 9. Saint Paul College**

**Health and Science Alliance Center**

1,500,000

To complete the design for an addition for the college's health and science programs, including the elimination of crowding in existing labs and the demolition of obsolete space.

**Subd. 10. Science, Technology, Engineering, and Math Initiatives**

5,200,000

To design, renovate, furnish, and equip science, technology, and math laboratories and classrooms at campuses statewide. Campuses may use internal and nonstate funds to increase the size

of the projects. This appropriation may be used at the following campuses: Bemidji State University; Century College; Inver Hills Community College; Minnesota State Community and Technical College, Moorhead; Minnesota State University, Moorhead; Northeast Higher Education District, Hibbing Community College, Itasca Community College, and Mesabi Range Community and Technical College; and Pine Technical College.

**Subd. 11. Debt Service**

(a) The Board of Trustees shall pay the debt service on one-third of the principal amount of state bonds sold to finance projects authorized by this section, except for higher education asset preservation and replacement, and except that, where a nonstate match is required, the debt service is due on a principal amount equal to one-third of the total project cost, less the match committed before the bonds are sold. After each sale of general obligation bonds, the commissioner of management and budget shall notify the board of the amounts assessed for each year for the life of the bonds.

(b) The commissioner of management and budget shall reduce the board's assessment each year by one-third of the net income from investment of general obligation bond proceeds in proportion to the amount of principal and interest otherwise required to be paid by the board. The board shall pay its resulting net assessment to the commissioner of management and budget by December 1 each year. If the board fails to make a payment when due, the commissioner of management and budget shall reduce allotments for appropriations from the general fund otherwise available to the board and apply the amount of the reduction to cover the missed debt service payment. The commissioner of management and budget shall credit the payments received from the board to the bond debt service account in the state bond fund each December 1 before money is transferred from the general fund under Minnesota Statutes, section 16A.641, subdivision 10.

**Subd. 12. Unspent Appropriations**

(a) Upon substantial completion of a project authorized in this section and after written notice to the commissioner of management and budget, the board must use any money remaining in the appropriation for that project for Higher Education Asset Preservation and Replacement (HEAPR) under Minnesota Statutes, section 135A.046. The board must report by February 1 of each even-numbered year to the chairs of the house of representatives and senate committees with jurisdiction over capital investments and higher education finance, and to the chairs of the house of representatives Ways and Means Committee and the senate Finance Committee, on how the remaining money has been allocated or spent.

(b) The unspent portion of an appropriation for a project in this section that is complete is available for Higher Education Asset Preservation and Replacement (HEAPR) under this subdivision at the same campus as the project for which the original appropriation was made, and the debt service requirement under subdivision 9 is reduced accordingly. Minnesota Statutes, section 16A.642, applies from the date of the original appropriation to the unspent amount transferred.

Sec. 4. **MINNESOTA STATE ACADEMIES**

**\$1,000,000**

To the commissioner of administration for asset preservation on both campuses of the academies, to be spent in accordance with Minnesota Statutes, section 16B.307.

Sec. 5. **PERPICH CENTER FOR ARTS EDUCATION**

Subdivision 1. **Total Appropriation**

**\$263,000**

To the commissioner of administration for the purposes specified in this section.

Subd. 2. **Loading Dock Repair**

64,000

To complete design of and repair the loading dock and dock steps.

Subd. 3. **Road Repair**

99,000

To complete design and repair roadway.

Subd. 4. **Storm Drainage**

100,000

To complete design of and install storm drainage on the northwest corner of campus.

Sec. 6. **NATURAL RESOURCES**

Subdivision 1. **Total Appropriation**

**\$21,409,000**

To the commissioner of natural resources for the purposes specified in this section. The appropriations in this section are subject to the requirements of the natural resources capital improvement program under Minnesota Statutes, section 86A.12, unless this section or the statutes referred to in this section provide more specific standards, criteria, or priorities for projects than Minnesota Statutes, section 86A.12.

Subd. 2. **Natural Resources Asset Preservation**

3,000,000

For the renovation of state-owned facilities and recreational assets operated by the commissioner of natural resources, to be spent in accordance with Minnesota Statutes, section 84.946. The

commissioner may use this appropriation to replace buildings if that is the most effective and the most energy-efficient and carbon-reducing method of renovation.

**Subd. 3. Flood Hazard Mitigation Grants**

4,409,000

For the state share of flood hazard mitigation grants for publicly owned capital improvements to prevent or alleviate flood damage under Minnesota Statutes, section 103F.161. Levee projects, to the extent practical, shall meet the state standard of three feet above the 100-year flood elevation. The commissioner shall determine project priorities as appropriate, based on need.

Of this appropriation, \$300,000 is for a grant to Douglas County for construction of a drainage outlet for Lake Oscar. This appropriation is not available until the commissioner has determined that at least \$10,000 has been secured for this project from nonstate sources.

Of this appropriation, \$4,109,000 is for a grant to the Red River Watershed Management Board for the following projects: Springbrook in the Two Rivers Watershed District; Roseau Water Management Area and Hay Creek/Norland in the Roseau River Watershed District; Brandt/Angus in the Middle Snake Tamarac Watershed District; Shelly, Felton, and Upper Becker in the Wild Rice Watershed District; and Climax, Nielsville, and Bear Park in the Sandhill Watershed District.

For any project listed in this subdivision that the commissioner determines is not ready to proceed or does not expend all the money allocated to it, the commissioner may allocate that project's money to a project on the commissioner's priority list.

To the extent that the cost of a project exceeds two percent of the median household income in the municipality multiplied by the number of households in the municipality, this appropriation is also for the local share of the project.

**Subd. 4. Dam Repair, Reconstruction, and Removal**

3,000,000

To renovate or remove publicly owned dams. The commissioner shall determine project priorities as appropriate under Minnesota Statutes, sections 103G.511 and 103G.515.

**Subd. 5. Roads and Bridges**

3,000,000

For the design, reconstruction, resurfacing, replacement, and construction of DNR-maintained roads, culverts, and bridges.

**Subd. 6. State Forest Land Reforestation****1,000,000**

To increase reforestation activities to meet the reforestation requirements of Minnesota Statutes, section 89.002, subdivision 2, including planting, seeding, site preparation; and for timber stand improvement.

**Subd. 7. State Parks and Trails Renewal and Development****7,000,000**

For renewal, modification, replacement, or development of buildings and recreational infrastructure in state parks, state recreation areas, state trails, small craft harbors and marinas, fishing pier sites, and state forests.

**Subd. 8. Unspent Appropriations**

The unspent portion of an appropriation, but not to exceed ten percent of the appropriation, for a project in this section that is complete, other than an appropriation for flood hazard mitigation, upon written notice to the commissioner of management and budget, is available for asset preservation under Minnesota Statutes, section 84.946. Minnesota Statutes, section 16A.642, applies from the date of the original appropriation to the unspent amount transferred for asset preservation.

**Sec. 7. POLLUTION CONTROL AGENCY****\$1,956,000****Capital Assistance Grant, Becker County**

To the Pollution Control Agency for a solid waste capital assistance grant under Minnesota Statutes, section 115A.54, to Becker County to design and construct a waste transfer facility and a material recovery facility. This amount includes 75 percent of the cost of the transfer station and 50 percent of the cost of a material recovery facility. This grant is not available until the agency determines that an amount sufficient to complete the project is committed from nonstate sources.

**Sec. 8. BOARD OF WATER AND SOIL RESOURCES****Subdivision 1. Total Appropriation****\$10,000,000**

To the Board of Water and Soil Resources for the purposes specified in this section.

**Subd. 2. RIM Conservation Reserve****8,000,000**

(a) To acquire conservation easements from landowners to preserve, restore, create, and enhance wetlands; restore and enhance rivers and streams, riparian lands, and associated uplands in order to protect soil and water quality; support fish and wildlife

habitat; reduce flood damage; and provide other public benefits. The provisions of Minnesota Statutes, section 103F.515, apply to this appropriation, except that the board may establish alternative payment rates for easements and practices to establish restored native prairies, as defined in Minnesota Statutes, section 84.02, subdivision 5, and to protect uplands. Of this appropriation, up to ten percent may be used to implement the program.

(b) The board is authorized to enter into new agreements and amend past agreements with landowners as required by Minnesota Statutes, section 103F.515, subdivision 5, to allow for restoration, including overseeding and harvesting of native prairie vegetation for use for energy production in a manner that does not devalue the natural habitat, water quality benefits, or carbon sequestration functions of the area enrolled in the easement. This shall occur after seed production and minimize impacts on wildlife. Of this appropriation, up to five percent may be used for restoration, including overseeding.

**Subd. 3. Wetland Replacement Due to Public Road Projects**

2,000,000

To acquire land for wetland restoration or preservation to replace wetlands drained or filled as a result of the repair or reconstruction, replacement, or rehabilitation of existing public roads as required by Minnesota Statutes, section 103G.222, subdivision 1, paragraphs (l) and (m). The provisions of Minnesota Statutes, section 103F.515, apply to this appropriation, except that the board may establish alternative payment rates for easements and practices to establish restored native prairies, as defined in Minnesota Statutes, section 84.02, subdivision 5, and to protect uplands. The purchase price paid for acquisition of land, fee, or perpetual easement must be the fair market value as determined by the board. The board may enter into agreements with the federal government, other state agencies, political subdivisions, and nonprofit organizations or fee owners to acquire land and restore and create wetlands and to acquire existing wetland banking credits. Acquisition of or the conveyance of land may be in the name of the political subdivision.

**Sec. 9. RURAL FINANCE AUTHORITY**

**\$33,000,000**

For the purposes set forth in the Minnesota Constitution, article XI, section 5, paragraph (h), to the Rural Finance Authority to purchase participation interests in or to make direct agricultural loans to farmers under Minnesota Statutes, chapter 41B. This appropriation is for the beginning farmer program under Minnesota Statutes, section 41B.039; the loan restructuring program under Minnesota Statutes, section 41B.04; the seller-sponsored program under Minnesota Statutes, section 41B.042; the agricultural improvement loan program under Minnesota Statutes, section

41B.043; and the livestock expansion loan program under Minnesota Statutes, section 41B.045. All debt service on bond proceeds used to finance this appropriation must be repaid by the Rural Finance Authority under Minnesota Statutes, section 16A.643. Loan participations must be priced to provide full interest and principal coverage and a reserve for potential losses. Priority for loans must be given first to basic beginning farmer loans, second to seller-sponsored loans, and third to agricultural improvement loans.

Sec. 10. **MINNESOTA ZOOLOGICAL GARDEN**

**\$5,000,000**

To the Minnesota Zoological Garden for capital asset preservation and betterments to infrastructure and exhibits at the Minnesota Zoo to be spent in accordance with Minnesota Statutes, section 16B.307.

Sec. 11. **ADMINISTRATION**

Subdivision 1. **Total Appropriation**

**\$8,000,000**

To the commissioner of administration for the purposes specified in this section.

Subd. 2. **Asset Preservation**

3,000,000

For asset preservation studies and projects on properties managed by the commissioner. This appropriation must be spent in accordance with Minnesota Statutes, section 16B.307. This appropriation includes money to renovate or replace the house of representatives TV control room heating, ventilating, and air conditioning system in the Capitol building.

Subd. 3. **Hennepin County, Washburn Center for Children**

5,000,000

For a grant to Hennepin County to acquire and prepare a site for and to predesign, design, construct, furnish, and equip a new Washburn Center for Children that will be used to provide mental health services to children. The county is authorized to take actions and enter into agreements needed to perform the functions set forth in this section, and the agreements may include provisions and conditions that the county negotiates. The county may enter into a lease or management contract for the new center with a nonprofit entity. The lease or management contract must comply with the requirements of Minnesota Statutes, section 16A.695. This appropriation is not available until the commissioner has determined that at least an equal amount has been committed or expended from nonstate resources.

Sec. 12. **AMATEUR SPORTS****\$375,000**

To the Minnesota Amateur Sports Commission to replace HVAC heating and cooling units in the Indoor Sports Hall at the National Sports Center in Blaine.

Sec. 13. **MILITARY AFFAIRS****\$2,000,000**

To the adjutant general for asset preservation improvements and betterments of a capital nature at military affairs facilities statewide, to be spent in accordance with Minnesota Statutes, section 16B.307.

Sec. 14. **PUBLIC SAFETY****\$2,000,000****State Emergency Operations Center**

To the commissioner of administration to complete site preparation and design for the State Emergency Operations Center in Arden Hills.

Sec. 15. **TRANSPORTATION**Subdivision 1. **Total Appropriation****\$38,500,000**

This appropriation is to the commissioner of transportation for the purposes specified in this section.

Subd. 2. **Local Bridge Replacement and Rehabilitation**20,000,000

This appropriation is from the bond proceeds account in the state transportation fund to match federal money and to replace or rehabilitate local deficient bridges as provided in Minnesota Statutes, section 174.50. To the extent practicable, the commissioner shall expend the funds as provided under Minnesota Statutes, section 174.50, subdivisions 6c and 7, paragraph (c).

Political subdivisions may use grants made under this subdivision to construct or reconstruct bridges, including but not limited to:

(1) matching federal aid grants to construct or reconstruct key bridges;

(2) paying the costs of preliminary engineering and environmental studies authorized under Minnesota Statutes, section 174.50, subdivision 6a;

(3) paying the costs to abandon an existing bridge that is deficient and in need of replacement, but where no replacement will be made; and

(4) paying the costs to construct a road or street to facilitate the abandonment of an existing bridge determined by the commissioner to be deficient, if the commissioner determines that construction of the road or street is more economical than replacement of the existing bridge.

**Subd. 3. Local Road Improvements**

10,000,000

Approximately one-half of the appropriation is for construction and reconstruction of local roads with statewide or regional significance under Minnesota Statutes, section 174.52, subdivision 4, and one-half is for grants to counties to assist in paying the costs of rural road safety capital improvement projects on county state-aid highways under Minnesota Statutes, section 174.52, subdivision 4a.

This appropriation is from the bond proceeds account in the state transportation fund as provided in Minnesota Statutes, section 174.50.

**Subd. 4. Railroad Warning Devices Replacement**

2,500,000

To design, construct, and equip the replacement of active highway rail grade crossing warning safety devices that have reached the end of their useful life.

**Subd. 5. Rail Service Improvement Program**

1,000,000

For the rail service improvement program to be spent for the purposes set forth in Minnesota Statutes, section 222.50, subdivision 7.

**Subd. 6. Port Development Assistance**

1,000,000

For grants under Minnesota Statutes, chapter 457A. Any improvements made with the proceeds of these grants must be publicly owned.

**Subd. 7. I-35W Storm Tunnel, Minneapolis**

4,000,000

For a grant to the city of Minneapolis to design and construct capital asset preservation improvements and betterments to the marked Interstate Highway 35W north and south storm tunnel systems to provide drainage for the interstate right-of-way as well as portions of southwest and northeast Minneapolis which drain into the tunnel.

**Sec. 16. METROPOLITAN COUNCIL**

**Subdivision 1. Total Appropriation**

\$8,100,000

To the Metropolitan Council for the purposes specified in this section.

**Subd. 2. Metropolitan Regional Parks Capital Improvements** **5,000,000**

For the cost of improvements and betterments of a capital nature and acquisition by the council and local government units of regional recreational open-space lands in accordance with the council's policy plan as provided in Minnesota Statutes, section 473.147. This appropriation must not be used to purchase easements.

**Subd. 3. Minneapolis Park and Recreation Board - Phillips Community Center Pool Renovation** **2,100,000**

For a grant to the Minneapolis Park and Recreation Board to predesign, design, engineer, reconstruct, renovate, furnish, and equip the Phillips Community Center indoor competitive swimming pool and to predesign, design, engineer, and construct an additional indoor multipurpose family pool and facilities associated with an aquatic center in the community center, subject to Minnesota Statutes, section 16A.695.

**Subd. 4. Gateway (I-94 East) Corridor** **1,000,000**

For a grant to the Washington County Regional Railroad Authority to perform environmental studies and preliminary engineering work for the Gateway (I-94 East) Corridor.

**Sec. 17. HUMAN SERVICES** **\$2,500,000**

To the commissioner of administration for asset preservation improvements and betterments of a capital nature at Department of Human Services facilities statewide, to be spent in accordance with Minnesota Statutes, section 16B.307.

**Sec. 18. VETERANS AFFAIRS**

**Subdivision 1. Total Appropriation** **\$3,250,000**

To the commissioner of administration for the purposes specified in this section. The commissioner must allocate money appropriated in this section so as to maximize the use of all available federal funding.

**Subd. 2. Asset Preservation** **3,000,000**

For asset preservation improvements and betterments of a capital nature at veterans homes and cemeteries statewide, to be spent in accordance with Minnesota Statutes, section 16B.307.

**Subd. 3. Northern Minnesota Veterans Home**250,000

For predesign of a 90-bed geriatric nursing facility for veterans on the campus of the North County Regional Hospital in the city of Bemidji. This facility shall be known as the "Northern Minnesota Veterans Home."

**Sec. 19. CORRECTIONS****Subdivision 1. Total Appropriation****\$14,128,000**

To the commissioner of administration, or other named person, for the purposes specified in this section.

**Subd. 2. Asset Preservation**10,000,000

For improvements and betterments of a capital nature at Minnesota correctional facilities statewide, in accordance with Minnesota Statutes, section 16B.307.

**Subd. 3. Minnesota Correctional Facility - Stillwater**3,391,000**Well and Water Treatment Facility**

To complete design; cap an old well; install a new well; replace piping between wells, water tower, and facility intake; replace water treatment equipment; and design, construct, furnish, and equip a new building to house water treatment equipment.

**Subd. 4. Northeast Regional Correctional Center (NERCC)**737,000

For a grant to the Arrowhead Regional Corrections Joint Powers Board for asset preservation improvements and betterments of a capital nature at the Northeast Regional Correctional Center (NERCC).

**Subd. 5. Unspent Appropriations**

The unspent portion of an appropriation for a project in this section that is complete, upon written notice to the commissioner of management and budget, is available for asset preservation under Minnesota Statutes, section 16B.307, at the same correctional facility as the project for which the original appropriation was made. Minnesota Statutes, section 16A.642, applies from the date of the original appropriation to the unspent amount transferred.

**Sec. 20. EMPLOYMENT AND ECONOMIC DEVELOPMENT****Subdivision 1. Total Appropriation****\$46,285,000**

To the commissioner of employment and economic development for the purposes specified in this section.

**Subd. 2. Greater Minnesota Business Development Public Infrastructure Grant Program** 5,000,000

For grants under Minnesota Statutes, section 116J.431.

**Subd. 3. Redevelopment Account** 5,000,000

For purposes of the redevelopment account under Minnesota Statutes, sections 116J.571 to 116J.575.

**Subd. 4. Transportation Economic Development Program** 5,000,000

For grants under Minnesota Statutes, section 116J.436.

**Subd. 5. Austin - Research and Technology Center** 9,000,000

For a grant to the city of Austin to design and construct a new building addition to the Hormel Institute, including research labs, research technology space, and support offices. This appropriation is not available until the commissioner has determined that at least an equal amount has been committed to the project from nonstate sources.

**Subd. 6. Bemidji - Lakeland Public Television Media Center** 3,000,000

For a grant to the city of Bemidji to construct, furnish, and equip a regional public television station in the city of Bemidji. This appropriation is not available until the commissioner determines that at least a 25 percent match has been committed to the project from nonstate sources.

**Subd. 7. Itasca County - Regional Fire Station** 1,200,000

For a grant to Itasca County to acquire land along Trunk Highway 169 in Itasca County for a new consolidated regional fire station serving the cities of Calumet and Marble and Greenway Township, and to predesign, design, construct, furnish, and equip the new facility. The county may convey any property acquired with the appropriation to a public regional fire protection entity created by the communities to be served by the new fire station.

**Subd. 8. Maplewood - Harriet Tubman Center East** 2,000,000

For a grant to the city of Maplewood to purchase, renovate, and make health, safety, and security improvements to the former St. Paul's Monastery to provide housing and various support programs for individuals and families in crisis. This appropriation is not available until the commissioner has determined that at least an equal amount has been committed to the project from nonstate sources.

**Subd. 9. Pine Technical College****Entrepreneurship and Technology Business Incubator**250,000

For a grant to the Board of Trustees of the Minnesota State Colleges and Universities to design, construct, furnish, and equip an entrepreneurship and technology business incubator at Pine Technical College. This appropriation is not available until the board determines that an equal match has been committed from nonstate sources, including a grant from the United States Economic Development Administration.

**Subd. 10. Saint Cloud Civic Center**1,000,000

For a grant to the city of St. Cloud to predesign and design an expansion of the St. Cloud Civic Center, including a parking facility and pedestrian skyway connection. This appropriation is not available until the commissioner of management and budget determines that at least an equal amount has been committed to the project from nonstate sources. Amounts expended by the city of St. Cloud for project costs since July 1, 2010, shall count toward the matching requirement.

**Subd. 11. Saint Paul, Beacon Bluff Business and Jobs Site Infrastructure Development**350,000

For a grant to the Saint Paul Port Authority for preliminary design and engineering of improvements and betterments of a capital nature, including utilities, all within the Beacon Bluff Business Center along Phalen Boulevard in Saint Paul.

**Subd. 12. Saint Paul, Minnesota Children's Museum**12,000,000

For a grant to the city of Saint Paul to design, construct, furnish, and equip an expansion and renovation of the Minnesota Children's Museum, subject to Minnesota Statutes, section 16A.695. The expansion and exhibit upgrades should incorporate the latest research on early learning, allow for new state-of-the art education facilities for Minnesota's early childhood educators, and increase the capacity of visitors to galleries and programming areas. This appropriation is not available until the commissioner has determined that at least an equal amount has been committed from nonstate sources.

**Subd. 13. Saint Paul, Regional Ballpark**2,000,000

For a grant to the city of Saint Paul for demolition and site preparation, environmental work, and to predesign and design a regional ballpark on the Gillette site in lowertown in the city of Saint Paul. This appropriation is not available until the commissioner has determined that at least an equal amount has been committed to the project from nonstate sources.

The city may employ or contract with persons, firms, or corporations to perform one or more or all of the functions of architect, engineer, or construction manager with respect to all or any part of the regional ballpark and related public infrastructure. The city may deliver the project through either a design-build or construction manager at-risk method. Alternatively, at the request of a minor league baseball team, and with the consent of the city, the city may authorize the team to provide for the design and construction for the ballpark and related public infrastructure, subject to the terms of this subdivision. To the extent practicable and at the discretion of the city, the city may have such rights and exercise such powers, with respect to the acquisition, construction, use, and operation of the regional ballpark, as are granted to the Minnesota Ballpark Authority under Minnesota Statutes, section 473.756. No consent or approval of another political subdivision is required for the effectiveness or the exercise by the city of such rights or powers.

**Subd. 14. Stewartville - Fire Station Expansion**

485,000

For a grant to the city of Stewartville to complete design work and engineering, and to construct, furnish, and equip an expansion and renovation of the city fire station. This appropriation is not available until at least an equal amount is committed to the project from nonstate sources.

**Sec. 21. PUBLIC FACILITIES AUTHORITY**

**Subdivision 1. Total Appropriation**

**\$23,600,000**

To the Public Facilities Authority for the purposes specified in this section.

**Subd. 2. Wastewater Infrastructure Funding Program**

20,000,000

For grants to eligible municipalities under the wastewater infrastructure funding program under Minnesota Statutes, section 446A.072.

\$5,000,000 is for a grant to the Central Iron Range Sanitary Sewer District to supplement previous wastewater infrastructure funding grants to design, construct, furnish, and equip new wastewater treatment facilities, lift stations, and force mains. This grant is not subject to the limitations on the availability or amount of the grant in Minnesota Statutes, section 446A.072.

**Subd. 3. Lutsen Lake Superior Water Project**

3,600,000

For a grant to the Lake Superior-Poplar River Water District to acquire property interests, engineer, design, permit, and construct works and systems to transport and treat water from Lake Superior

through the Poplar River Valley to serve domestic and irrigation water users and commercial, stock watering, and industrial users. This appropriation is not available until the authority has determined that at least \$1,200,000 in nonstate match has been committed to the project. Expenditures made on or after October 1, 2011, shall count towards the nonstate match.

Sec. 22. **HOUSING FINANCE AGENCY**

**\$5,000,000**

To the Housing Finance Agency to finance the rehabilitation of public housing under Minnesota Statutes, section 462A.202, subdivision 3a. For purposes of this section, "public housing" means housing for low-income persons and households financed by the federal government and owned and operated by public housing authorities and agencies formed by cities and counties. Eligible public housing authorities must have a public housing assessment system rating of standard or above. Priority must be given to proposals that maximize federal or local resources to finance the capital costs. The priority in Minnesota Statutes, section 462A.202, subdivision 3a, for projects to increase the supply of affordable housing and the restrictions of Minnesota Statutes, section 462A.202, subdivision 7, do not apply to this appropriation.

Sec. 23. **MINNESOTA HISTORICAL SOCIETY**

Subdivision 1. **Total Appropriation**

**\$3,250,000**

To the Minnesota Historical Society for the purposes specified in this section.

Subd. 2. **Asset Preservation**

2,000,000

For capital improvements and betterments at state historic sites, buildings, landscaping at historic buildings, exhibits, markers, and monuments, to be spent in accordance with Minnesota Statutes, section 16B.307. The society shall determine project priorities as appropriate based on need.

Subd. 3. **Oliver Kelley Farm Historic Site Revitalization Design**

500,000

To complete design of the renovation of the Oliver H. Kelley Historic Site, including the site's visitor center and other essential visitor services and site operations facilities.

Subd. 4. **County and Local Preservation Grants**

750,000

To be allocated to county and local jurisdictions as matching money for historic preservation projects of a capital nature, as provided in Minnesota Statutes, section 138.0525.

Sec. 24. **BOND SALE EXPENSES****\$281,000**

To the commissioner of management and budget for bond sale expenses under Minnesota Statutes, section 16A.641, subdivision 8.

Sec. 25. **BOND SALE AUTHORIZATION.**

Subdivision 1. **Bond proceeds fund.** To provide the money appropriated in this act from the bond proceeds fund, the commissioner of management and budget shall sell and issue bonds of the state in an amount up to \$305,429,000 in the manner, upon the terms, and with the effect prescribed by Minnesota Statutes, sections 16A.631 to 16A.675, and by the Minnesota Constitution, article XI, sections 4 to 7.

Subd. 2. **Transportation fund.** To provide the money appropriated in this act from the state transportation fund, the commissioner of management and budget shall sell and issue bonds of the state in an amount up to \$20,000,000 in the manner, upon the terms, and with the effect prescribed by Minnesota Statutes, sections 16A.631 to 16A.675, and by the Minnesota Constitution, article XI, sections 4 to 7. The proceeds of the bonds, except accrued interest and any premium received on the sale of the bonds, must be credited to a bond proceeds account in the state transportation fund.

Sec. 26. Minnesota Statutes 2010, section 16B.32, subdivision 1, is amended to read:

Subdivision 1. **Alternative energy sources.** Plans prepared by the commissioner for a new building or for a renovation of 50 percent or more of an existing building or its energy systems must include designs which use ~~active and passive solar energy systems~~, earth sheltered construction, and other alternative energy sources where feasible.

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

Sec. 27. Minnesota Statutes 2010, section 16B.32, subdivision 1a, is amended to read:

Subd. 1a. **Onsite energy generation from renewable sources.** A state agency that prepares a predesign for a new building must consider meeting at least two percent of the energy needs of the building from ~~renewable sources wind energy~~ located on the building site. ~~For purposes of this subdivision, "renewable sources" are limited to wind and the sun.~~ The predesign must include an explicit cost and price analysis of complying with the two-percent requirement compared with the present and future costs of energy supplied by a public utility from a location away from the building site and the present and future costs of controlling carbon emissions. If the analysis concludes that the building should not meet at least two percent of its energy needs from ~~renewable sources~~ wind energy located on the building site, the analysis must provide explicit reasons why not. The building may not receive further state appropriations for design or construction unless at least two percent of its energy needs are designed to be met from ~~renewable sources~~ wind energy, unless the commissioner finds that the reasons given by the agency for not meeting the two-percent requirement were supported by evidence in the record.

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

Sec. 28. **[16B.323] SOLAR ENERGY IN STATE BUILDINGS.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Made in Minnesota" means the manufacture in this state of:

(i) components of a solar thermal system certified by the Solar Rating and Certification Corporation; or

(ii) solar photovoltaic modules that:

(1) are manufactured at a manufacturing facility that is registered and authorized to manufacture those solar photovoltaic modules by Underwriters Laboratory, CSA International, Intertek, or an equivalent independent testing agency;

(2) bear certification marks from Underwriters Laboratory, CSA International, Intertek, or an equivalent independent testing agency; and

(3) meet the requirements of section 116C.7791, subdivision 3, paragraph (a), clauses (1), (5), and (6).

For the purposes of clause (ii), "manufactured" has the meaning given in section 116C.7791, subdivision 1, paragraph (b), clauses (1) and (2).

(c) "Major renovation" means a substantial addition to an existing building, or a substantial change to the interior configuration or the energy system of an existing building.

(d) "Solar energy system" means solar photovoltaic modules alone or installed in conjunction with a solar thermal system.

(e) "Solar photovoltaic module" has the meaning given in section 116C.7791, subdivision 1, paragraph (e).

(f) "Solar thermal system" has the meaning given "qualifying solar thermal project" in section 216B.2411, subdivision 2, paragraph (e).

(g) "State building" means a building whose construction or renovation is paid wholly or in part by the state, from any source of funds.

**Subd. 2. Percent of appropriation for solar energy.** (a) Any appropriation made for the construction or major renovation of a state building, except as provided in paragraph (c), must include an amount equal to five percent of the appropriation for the purchase and installation of "Made in Minnesota" solar energy systems on or adjacent to the state building.

(b) An appropriation made under this section may not be used to purchase and install:

(i) solar photovoltaic modules on a single building that, in aggregate, exceed a capacity of 40 kilowatts; or

(ii) a solar thermal system that does not operate conjointly with photovoltaic modules on the same building. Purchase and installation of a solar thermal system may account for no more than 25 percent of the total appropriation for a building made under this section.

(c) The commissioner may exempt a major renovation of a state building from the requirements of this section if the commissioner finds that the structural soundness or other physical condition of the state building to be renovated makes the installation of a solar energy system infeasible.

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

Sec. 29. **[116J.436] TRANSPORTATION ECONOMIC DEVELOPMENT INFRASTRUCTURE PROGRAM.**

Subdivision 1. **Grant program established; purpose.** The transportation economic development infrastructure program is created to foster interagency coordination between the Departments of Transportation and Employment and Economic Development to finance infrastructure to create economic development opportunities, jobs, and improve all types of transportation systems statewide.

Subd. 2. **Eligible projects.** Funds appropriated for the program must be used to fund construction, reconstruction, and infrastructure improvements that will promote economic development, increase employment, and improve transportation systems to accommodate private investment and job creation.

Subd. 3. **Trunk highway projects.** Money in the program shall not be used on trunk highway improvements, but can be used for needed infrastructure improvements and nontrunk highway improvements in coordination with trunk highway improvement projects undertaken by the Department of Transportation.

Subd. 4. **Application.** The commissioners of transportation and employment and economic development shall design an application process and selection process to distribute funding to local units of government for publicly owned infrastructure using criteria that take into account: job creation; increase in local tax base; level of private investment; leverage of nonstate funds; improvement to the transportation system to serve the project area; and appropriate geographic balance between the metropolitan area and greater Minnesota.

Sec. 30. Minnesota Statutes 2010, section 462A.21, is amended by adding a subdivision to read:

Subd. 33. **Housing infrastructure bonds account.** The agency may establish a housing infrastructure bond account as a separate account within the housing development fund. Proceeds of housing infrastructure bonds and payments made by the state under section 462A.37 may be credited to the account. The agency may transfer the proceeds of housing infrastructure bonds to other accounts within the housing development fund that it determines appropriate to accomplish the purposes for which the bonds are authorized under section 462A.37.

Sec. 31. **[462A.37] HOUSING INFRASTRUCTURE BONDS; AUTHORIZATION; STANDING APPROPRIATION.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Abandoned property" has the meaning given in section 117.025, subdivision 5.

(c) "Community land trust" means an entity that meets the requirements of section 462A.31, subdivisions 1 and 2.

(d) "Debt service" means the amount payable in any fiscal year of principal, premium, if any, and interest on housing infrastructure bonds and the fees, charges, and expenses related to the bonds.

(e) "Foreclosed property" means residential property where foreclosure proceedings have been initiated or have been completed and title transferred or where title is transferred in lieu of foreclosure.

(f) "Housing infrastructure bonds" means bonds issued by the agency under chapter 462A that are qualified 501(c)(3) bonds, within the meaning of Section 145(a) of the Internal Revenue Code, or are tax-exempt bonds that are not private activity bonds, within the meaning of Section 141(a) of the Internal Revenue Code, for the purpose of financing or refinancing affordable housing authorized under this chapter.

(g) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended.

(h) "Supportive housing" means housing that is not time-limited and provides or coordinates with linkages to services necessary for residents to maintain housing stability and maximize opportunities for education and employment.

Subd. 2. **Authorization.** (a) The agency may issue up to \$10,000,000 in aggregate principal amount of housing infrastructure bonds in one or more series to which the payment made under this section may be pledged. The housing infrastructure bonds authorized in this subdivision may be issued to fund loans, on terms and conditions the agency deems appropriate, made for one or more of the following purposes:

(1) to finance the costs of the construction, acquisition, and rehabilitation of supportive housing for individuals and families who are without a permanent residence;

(2) to finance the costs of the acquisition and rehabilitation of foreclosed or abandoned housing to be used for affordable rental housing and the costs of new construction of rental housing on abandoned or foreclosed property where the existing structures will be demolished or removed;

(3) to finance that portion of the costs of acquisition of abandoned or foreclosed property that is attributable to the land to be leased by community land trusts to low- and moderate-income homebuyers; and

(4) to finance the costs of acquisition and rehabilitation of federally assisted rental housing and for the refinancing of costs of the construction, acquisition, and rehabilitation of federally assisted rental housing, including providing funds to refund, in whole or in part, outstanding bonds previously issued by the agency or another governmental unit to finance or refinance such costs.

(b) Among comparable proposals for permanent supportive housing, preference shall be given to permanent supportive housing for individuals or families who: (1) either have been without a permanent residence for at least 12 months or at least four times in the last three years; or (2) are at significant risk of lacking a permanent residence for 12 months or at least four times in the last three years.

Subd. 3. **No full faith and credit.** The housing infrastructure bonds are not public debt of the state, and the full faith and credit and taxing powers of the state are not pledged to the payment of the housing infrastructure bonds or to any payment that the state agrees to make under this section. The bonds must contain a conspicuous statement to that effect.

Subd. 4. **Appropriation; payment to agency or trustee.** (a) The agency must certify annually to the commissioner of management and budget the actual amount of annual debt service on each series of bonds issued under subdivision 2.

(b) Each July 15, beginning in 2013 and through 2035, if any housing infrastructure bonds issued under subdivision 2 remain outstanding, the commissioner of management and budget must transfer to the affordable housing bond account established under section 462A.21, subdivision 33, the amount certified under paragraph (a), not to exceed \$1,850,000 annually. The amounts necessary to make the transfers are appropriated from the general fund to the commissioner of management and budget.

(c) The agency may pledge to the payment of the housing infrastructure bonds the payments to be made by the state under this section.

Sec. 32. Laws 2006, chapter 258, section 7, subdivision 23, as amended by Laws 2010, chapter 399, section 2, is amended to read:

Subd. 23. **Trail connections**

2,010,000

For matching grants under Minnesota Statutes, section 85.019, subdivision 4c.

\$500,000 is for a grant to Carlton County to predesign, design, and construct a nonmotorized pedestrian trail connection to the Willard Munger State Trail from the city of Carlton through the city of Scanlon continuing to the city of Cloquet, along the St. Louis River in Carlton County.

\$260,000 is to provide the state match for the cost of the Soo Line Multiuse Recreational Bridge project over marked Trunk Highway 169 in Mille Lacs County.

\$175,000 is for a grant to the city of Bowlus in Morrison County to design, construct, furnish, and equip a trailhead center at the head of the Soo Line Recreational Trail.

\$125,000 is for a grant to Morrison County to predesign, design, construct, furnish, and equip a park-and-ride lot and restroom building adjacent to the Soo Line Recreational Trail at U.S. Highway 10.

\$950,000 is for a grant to the St. Louis and Lake Counties Regional Railroad Authority for land acquisition, engineering, construction, furnishing, and equipping of a ~~19-mile "Boundary Waters Connection" of the Mesabi Trail from Bearhead State Park to the International Wolf Center in Ely. This appropriation is contingent upon a matching contribution of \$950,000 from other sources, public or private.~~ segment of the Mesabi Trail from County Road 697 in Breitung Township east through Vermilion State Park. Notwithstanding Minnesota Statutes, section 85.019, no local match shall be required for this grant. Notwithstanding Minnesota Statutes, section 16A.642, the bond authorization and appropriation of bond proceeds for this project are available until June 30, 2014.

Sec. 33. Laws 2006, chapter 258, section 17, subdivision 3, is amended to read:

Subd. 3. **Cedar Avenue Bus Rapid Transit (BRT)**

5,000,000

To the Metropolitan Council or for a grant to Dakota County for environmental studies, preliminary engineering, bus lane improvements, and transit station construction and improvements in the Cedar Avenue Bus Rapid Transit Corridor.

This appropriation may not be spent for capital improvements within a trunk highway right-of-way.

Sec. 34. Laws 2008, chapter 179, section 7, subdivision 27, as amended by Laws 2010, chapter 189, section 56, and Laws 2010, chapter 399, section 4, is amended to read:

**Subd. 27. State Trail Acquisition, Rehabilitation, and Development** 15,320,000

To acquire land for and to construct and renovate state trails under Minnesota Statutes, section 85.015.

\$970,000 is for the Chester Woods Trail from Rochester to Dover. Notwithstanding Minnesota Statutes, section 16A.642, the bond authorization and appropriation of bond proceeds for this project are available until June 30, 2016.

\$700,000 is for the Casey Jones Trail.

\$750,000 is for the Gateway Trail, to replace an at-grade crossing of the Gateway Trail at Highway 120 with a grade-separated crossing.

\$1,600,000 is for the Gitchi-Gami Trail between Silver Bay and Tettegouche State Park.

\$1,500,000 is for the Great River Ridge Trail from Plainview to Elgin to Eyota.

\$1,500,000 is for the Heartland Trail.

\$500,000 is for the Mill Towns Trail from Lake Byllesby Park to Cannon Falls.

\$150,000 is for the Mill Towns Trail within the city of Faribault.

\$1,500,000 is for the Minnesota River Trail from Appleton to Milan and to the Marsh Lake Dam. Notwithstanding Minnesota Statutes, section 16A.642, the bond authorization and appropriation of bond proceeds for this project are available until December 30, 2014.

\$2,000,000 is for the Paul Bunyan Trail from Walker to Guthrie.

\$250,000 is for the Root River Trail from Preston to Forestville State Park.

\$100,000 is for the Root River Trail, the eastern extension.

\$250,000 is for the Root River Trail, the eastern extension Wagon Wheel.

\$550,000 is to connect the Stagecoach Trail with the Douglas Trail in Olmsted County.

\$3,000,000 is to rehabilitate state trails.

For any project listed in this subdivision that the commissioner determines is not ready to proceed, the commissioner may allocate that project's money to another state trail project in this subdivision. The chairs of the house and senate committees with jurisdiction over environment and natural resources and legislators from the affected legislative districts must be notified of any changes.

Sec. 35. Laws 2008, chapter 179, section 17, subdivision 4, is amended to read:

Subd. 4. **Cedar Avenue Bus Rapid Transit** 4,000,000

To the Metropolitan Council or to the Council to grant to Dakota County, the Dakota County Regional Railroad Authority, or the Minnesota Valley Transit Authority to acquire land, or an interest in land, and to for design, environmental studies, preliminary engineering, bus lane improvements, layover and maintenance facilities, and transit station construction and improvements in the Cedar Avenue Bus Rapid Transit corridor in Dakota County. This appropriation may not be spent for capital improvements within a trunk highway right-of-way. This appropriation is added to the appropriation in Laws 2006, chapter 258, section 17, subdivision 3.

Sec. 36. Laws 2008, chapter 179, section 19, subdivision 4, as amended by Laws 2011, First Special Session chapter 12, section 34, is amended to read:

Subd. 4. **Minneapolis Veterans Home Campus**

**Building 17 HVAC Replacement** 1,155,000

To predesign, design, and construct improvements to heating, ventilation, air conditioning, and lighting systems and associated areas serving the south wing of Building 17. Any unspent funds from this appropriation may be used for the purposes provided under Laws 2010, chapter 189, section 19, subdivision 4, as amended by Laws 2010, chapter 399, section 8, and Laws 2011, First Special Session chapter 12, section 46.

Sec. 37. Laws 2008, chapter 179, section 21, subdivision 15, as amended by Laws 2008, chapter 365, section 22, and Laws 2008, chapter 370, section 6, is amended to read:

Subd. 15. **St. Cloud State University - National Hockey Center; HEAPR** 6,500,000

To the Board of Trustees of the Minnesota State Colleges and Universities to predesign, design, construct, furnish, and equip the renovation of and addition to the National Hockey Center or for

higher education asset preservation and replacement (HEAPR) pursuant to Minnesota Statutes, section 135A.046, at St. Cloud State University or systemwide. The board may use university and nonstate money for the remainder of the cost of the construction of the National Hockey Center project. Notwithstanding Minnesota Statutes, section 16A.642, the bond authorization and appropriation of bond proceeds in this subdivision are available until June 30, 2016.

Sec. 38. Laws 2009, chapter 93, article 1, section 12, subdivision 2, is amended to read:

**Subd. 2. Transit Capital Improvement Program**

21,000,000

(a) To the Metropolitan Council. \$8,500,000 is for the state's share of costs for the Central Corridor light rail line for one or more of the following activities: preliminary engineering, final design, property acquisition, including improvements and betterments of a capital nature, relocation of utilities owned by public entities, and construction.

(b) Any remaining money from this appropriation is to implement one or more of the following capital improvements, which are not listed in a ranked order of priority. The council shall determine project priorities after consultation with the Counties Transit Improvement Board, and other stakeholders, as appropriate. The council shall seek geographic balance in the allotment of this appropriation where possible and maximize the use of all available federal money from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, and any other available federal money.

(1) Bottineau Boulevard Transit Way

For a grant to the Hennepin County Regional Railroad Authority for environmental work for Bottineau Transit Way corridor from the Hiawatha light rail and Northstar intermodal transit station in downtown Minneapolis to the vicinity of the Target development in northern Brooklyn Park or the Arbor Lakes retail area in Maple Grove.

(2) Cedar Avenue Bus Rapid Transit

To the Metropolitan Council or to the Council for a grant to Dakota County, the Dakota County Regional Rail Railroad Authority, or the Minnesota Valley Transit Authority to acquire real property and construct, for preliminary engineering, and to design and construct transit stations, layover and maintenance facilities, and roadway improvements for shoulder running bus lanes on County State-Aid Highway 23 in Apple Valley and Lakeville for the Cedar Avenue Bus Rapid Transit Way (BRT) in Dakota County.

(3) I-94 Corridor Transit Way

(i) For a grant to Washington County Regional Rail Authority for environmental work and preliminary engineering of transportation and transit improvements, including busways, park-and-rides, or rail transit, in the marked Interstate Highway 94 corridor.

(ii) To acquire property and construct transportation and transit improvements, including busways, park-and-rides, or rail transit, in the marked Interstate Highway 94 corridor.

(4) Red Rock Corridor Transit Way

To design, construct, and furnish park-and-ride lots for the Red Rock Corridor Transit Way between Hastings and Minneapolis via St. Paul, and any extension between Hastings and Red Wing.

(5) Riverview Corridor Transit Way

For a grant to the Ramsey County Regional Railroad Authority for environmental work and preliminary engineering for bus rapid transit in the Riverview corridor between the east side of St. Paul and the Minneapolis-St. Paul International Airport and the Mall of America.

(6) Robert Street Corridor Transit Way

To design and construct new passenger shelters and a bus layover facility, including rest rooms, break areas, and a passenger shelter, in the Robert Street Corridor Transit Way along or parallel to U.S. Highway 52 and Robert Street from within the city of St. Paul to Dakota County Road 42 in Rosemount.

(7) Rush Line Corridor Transit Way

For a grant to the Ramsey County Regional Railroad Authority to acquire land for, design, and construct park-and-ride or park-and-pool lots located along the Rush Line Corridor along I-35E/I-35 and Highway 61 from the Union Depot in downtown St. Paul to Hinckley.

(8) Southwest Corridor Transit Way

To prepare an environmental impact statement (EIS) and for preliminary engineering for the Southwest Transit Way Corridor, from the Hiawatha light rail in downtown Minneapolis to the vicinity of the Southwest Station transit hub in Eden Prairie. The Metropolitan Council may grant a portion of this appropriation to the Hennepin County Regional Railroad Authority for the EIS work.

## (9) Union Depot

For a grant to the Ramsey County Regional Railroad Authority to acquire land and structures, to renovate structures, and for design, engineering, and construction to revitalize Union Depot for use as a multimodal transit center in St. Paul. The center must be designed so that it facilitates a potential future connection of high-speed rail to Minneapolis.

(c) Of this amount, \$313,000 is for preliminary engineering and final design for betterments in the State Capitol area related to the Central Corridor light rail transit project. This money is not included in the Central Corridor light rail transit project budget.

Sec. 39. Laws 2010, chapter 189, section 7, subdivision 12, is amended to read:

Subd. 12. **Shade Tree Program**

3,000,000

For Department of Natural Resources expenditures on state lands, if recommended by an adjacent or coterminous unit of local government, and for grants to cities, counties, townships, and park and recreation boards in cities of the first class for the planting of publicly owned shade trees on public land to provide environmental benefits; replace trees lost to forest pests, disease or storm; or to establish a more diverse community forest better able to withstand disease and forest pests. The commissioner must give priority to grant requests to remove and replace trees with active infestations of emerald ash borer. For purposes of this appropriation, "shade tree" means a woody perennial grown primarily for aesthetic or environmental purposes with minimal to residual timber value and no intent to harvest the tree for its wood. Any tree planted with funding under this subdivision must be a species native to Minnesota.

Sec. 40. Laws 2010, chapter 189, section 18, subdivision 5, is amended to read:

Subd. 5. **Minnesota Sex Offender Program Treatment Facilities - Moose Lake**

47,500,000

To complete design for and to construct, furnish, and equip phase 2 of the Minnesota sex offender treatment program at Moose Lake. Upon substantial completion of this project, the unspent portion of this appropriation is available for asset preservation projects for the Moose Lake campus of the Minnesota sex offender program, including design and construction of a replacement water tower, abatement of hazardous materials, and the demolition of the existing water tower serving the Moose Lake sex offender program and the Department of Corrections Moose Lake facility. The water tower project must be cost-shared with the Department of Corrections.

Sec. 41. Laws 2010, chapter 189, section 24, subdivision 3, is amended to read:

**Subd. 3. County and Local Preservation Grants** 1,000,000

To be allocated to county and local jurisdictions as matching money for historic preservation projects of a capital nature, as provided in Minnesota Statutes, section 138.0525.

~~\$150,000 is for a grant to the city of South St. Paul to renovate the historically significant 1941 Navy Hangar at 310 Airport Road at Fleming Field in the city to meet life safety and building code requirements, subject to Minnesota Statutes, section 16A.695. No local match is required for this grant.~~

Sec. 42. Laws 2011, First Special Session chapter 12, section 3, subdivision 7, is amended to read:

**Subd. 7. Normandale Community College**

**Academic Partnership Center and Student Services** 21,984,000

To design, construct, furnish, and equip a new building for classrooms and offices ~~and to design, construct, furnish, and equip the renovation of the Student Services Building.~~

Sec. 43. Laws 2011, First Special Session chapter 12, section 3, subdivision 8, is amended to read:

**Subd. 8. NHED Mesabi Range Community and Technical College, Virginia**

**Iron Range Engineering Program Facilities** 3,000,000

To predesign, design, construct, furnish, and equip an addition to and renovation of existing space for the Iron Range engineering program, including laboratory spaces, other learning spaces, and improvements to the entrance, ~~and to acquire a privately owned housing facility on the campus.~~

Sec. 44. Laws 2011, First Special Session chapter 12, section 14, subdivision 2, is amended to read:

**Subd. 2. Transit Capital Improvement Program** 20,000,000

To the Metropolitan Council or for the Council to grant to Anoka County Regional Railroad Authority, Dakota County, Dakota County Regional Railroad Authority, Hennepin County, Hennepin County Regional Railroad Authority, Minnesota Valley Transit Authority, Ramsey County Regional Railroad Authority, or Washington County Regional Railroad Authority to perform environmental studies, preliminary engineering, acquire property or an interest in property, design or construct transitway facilities and infrastructure, including roadways, for the following transitway projects: Northstar Ramsey station, Gateway (I-94

East) corridor, Minneapolis Interchange facility, Red Rock corridor, Newport park-and-ride and station, Rush Line corridor, Robert Street corridor, 35W South Bus Rapid Transit, and Cedar Avenue Bus Rapid Transit.

Sec. 45. Laws 2011, First Special Session chapter 12, section 19, is amended to read:

Sec. 19. **PUBLIC FACILITIES AUTHORITY**

**\$20,000,000**

**Wastewater Infrastructure Funding Program**

To the Public Facilities Authority for grants to eligible municipalities under the wastewater infrastructure funding program under Minnesota Statutes, section 446A.072.

Notwithstanding the criteria and requirements of Minnesota Statutes, section 446A.072, up to \$1,000,000 of this appropriation is for a grant to the city of Albert Lea to design, construct, and equip water and sewer utilities in the area of Broadway Avenue and Main Street. This project may include demolition of deteriorating concrete curbs, gutters, sidewalks, and streets above the utilities, and the construction costs to replace and rehabilitate the infrastructure.

Sec. 46. Laws 2011, First Special Session chapter 12, section 22, is amended to read:

Sec. 22. **BOND SALE SCHEDULE.**

The commissioner of management and budget shall schedule the sale of state general obligation bonds so that, during the biennium ending June 30, 2013, no more than ~~\$1,200,858,000~~ \$1,088,452,000 will need to be transferred ~~from the general fund~~ to the state bond fund to pay principal and interest due and to become due on outstanding state general obligation bonds. Of the amount transferred, \$452,708,000 is from the general fund and \$635,744,000 is from the tobacco settlement bond proceeds fund. During the biennium, before each sale of state general obligation bonds, the commissioner of management and budget shall calculate the amount of debt service payments needed on bonds previously issued and shall estimate the amount of debt service payments that will be needed on the bonds scheduled to be sold. The commissioner shall adjust the amount of bonds scheduled to be sold so as to remain within the limit set by this section. The amount needed to make the debt service payments is appropriated from the general fund as provided in Minnesota Statutes, section 16A.641.

Sec. 47. **LAKE SUPERIOR-POPLAR RIVER WATER DISTRICT.**

Subdivision 1. Establishment. The Lake Superior-Poplar River Water District is created as a municipal corporation, having the powers provided under Minnesota Statutes, chapters 110A; 429, notwithstanding any provision of chapter 110A to the contrary; and 444. Notwithstanding any law to the contrary, the district shall not have the power to issue general obligation bonds. Minnesota Statutes, sections 110A.04, 110A.07, and 110A.09 to 110A.18, shall not apply to the district or to the board created by this act.

Subd. 2. Definitions. For purposes of applying Minnesota Statutes, chapter 110A, to this act, "works" and "systems" shall include irrigation purposes, "court" is deemed to refer to the board of county commissioners; and "secretary of state" is deemed to refer to the county auditor.

Subd. 3. **Territory included in district.** The territory of the district shall include all lands within Sections 20, 21, 28, 29, 32, and 33 of Township 60 North, Range 3 West of the Fourth Principal Meridian. Additional territory may be added as provided in Minnesota Statutes, sections 110A.19 to 110A.22.

Subd. 4. **Payment of costs.** No person shall be obligated to purchase or be entitled to receive water from the district unless that person is a party to a contract to purchase water from the district. Excluding any initial capital investment funded by the state, all capital and operating expenses of the district shall be paid by the users in proportion to their use of water. The cost of distribution lines: (1) departing from the main water pipe from Lake Superior to the domestic water treatment plant to any user; or (2) from the water treatment plant to any user, shall be paid for by the user of the water either at the time of installation or by user charges that allow the district to recoup the full cost of the distribution lines and the cost of financing. Subject to this subdivision and the availability of water under any applicable permit with a state or federal agency, any owner of land within the district may contract with the district for the purchase of water.

Subd. 5. **Board of directors; elections.** (a) The district shall be governed by a board of directors which shall have not less than three nor more than 13 members. The district's initial directors shall be appointed by the Cook County Board of Commissioners, with one director representing the domestic water users to serve for three years; up to two directors representing the irrigation water users, one to serve for two years and one to serve for three years; and up to two directors representing the commercial, stock watering, and industrial users, one to serve for one year and one to serve for two years.

(b) The district's establishment shall take effect upon the Cook County Board of Commissioners' appointment of the initial directors. The initial directors shall meet for the purposes of organization within 30 days of their appointment. Thereafter, except as otherwise provided in this subdivision, directors shall be elected in accordance with Minnesota Statutes, section 110A.24, from election divisions comprised of domestic water users; irrigation water users, and commercial, stock watering, and industrial users. Each use classification shall be entitled to elect one director, plus one additional director if its expected water usage for the following fiscal year exceeds ten percent of total water usage. Each water user within each use classification shall be entitled to cast one vote for each one percent of expected water usage for the following fiscal year. A homeowner's association shall vote on behalf of its members if duly authorized by appropriate action by the association's members. Prior to each election, the board of directors shall determine the use classifications entitled to vote, the expected water use percentage of each user and of use classification for the following fiscal year, and the number of directors each such use classification is entitled to elect. The elections shall be conducted and supervised by the board of directors and ratified by the Cook County Board of Commissioners.

**EFFECTIVE DATE; LOCAL APPROVAL.** This section is effective the day after the governing body of Cook County and its chief clerical officer comply with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Sec. 48. **ACQUISITIONS FOR CANISTEO PROJECT.**

The commissioner of natural resources shall acquire, without undue delay, the land or interests in land that are needed to construct a conveyance system and other betterments to accommodate the water level and outflow of water level from the Canisteo mine pit. The commissioner may acquire the land or interests in land by eminent domain, including use of the possession procedures under Minnesota Statutes, section 117.042.

Sec. 49. **REPEALER.**

Minnesota Rules, part 8895.0700, subpart 1, is repealed.

Sec. 50. **EFFECTIVE DATE.**

Except as otherwise provided, this act is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to capital improvements; authorizing spending to acquire and better public land and buildings and for other improvements of a capital nature with certain conditions; establishing programs; authorizing the sale and issuance of state bonds; modifying previous appropriations; authorizing Cook County to form a district for the construction of water facilities and provision of water service; authorizing the commissioner of natural resources to make certain acquisitions of land or interests in land; appropriating money; amending Minnesota Statutes 2010, sections 16B.32, subdivisions 1, 1a; 462A.21, by adding a subdivision; Laws 2006, chapter 258, sections 7, subdivision 23, as amended; 17, subdivision 3; Laws 2008, chapter 179, sections 7, subdivision 27, as amended; 17, subdivision 4; 19, subdivision 4, as amended; 21, subdivision 15, as amended; Laws 2009, chapter 93, article 1, section 12, subdivision 2; Laws 2010, chapter 189, sections 7, subdivision 12; 18, subdivision 5; 24, subdivision 3; Laws 2011, First Special Session chapter 12, sections 3, subdivisions 7, 8; 14, subdivision 2; 19; 22; proposing coding for new law in Minnesota Statutes, chapters 16B; 116J; 462A; repealing Minnesota Rules, part 8895.0700, subpart 1."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Gottwalt from the Committee on Health and Human Services Reform to which was referred:

H. F. No. 2627, A bill for an act relating to health; changing a requirement for electronic claims and electronic transactions; amending Minnesota Statutes 2010, section 62J.536, subdivision 1.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1  
HEALTH CARE

Section 1. Minnesota Statutes 2010, section 62J.497, subdivision 2, is amended to read:

Subd. 2. **Requirements for electronic prescribing.** (a) Effective January 1, 2011, all providers, group purchasers, prescribers, and dispensers must establish, maintain, and use an electronic prescription drug program. This program must comply with the applicable standards in this section for transmitting, directly or through an intermediary, prescriptions and prescription-related information using electronic media.

(b) If transactions described in this section are conducted, they must be done electronically using the standards described in this section. Nothing in this section requires providers, group purchasers, prescribers, or dispensers to electronically conduct transactions that are expressly prohibited by other sections or federal law.

(c) Providers, group purchasers, prescribers, and dispensers must use either HL7 messages or the NCPDP SCRIPT Standard to transmit prescriptions or prescription-related information internally when the sender and the recipient are part of the same legal entity. If an entity sends prescriptions outside the entity, it must use the NCPDP

SCRIPT Standard or other applicable standards required by this section. Any pharmacy within an entity must be able to receive electronic prescription transmittals from outside the entity using the adopted NCPDP SCRIPT Standard. This exemption does not supersede any Health Insurance Portability and Accountability Act (HIPAA) requirement that may require the use of a HIPAA transaction standard within an organization.

(d) Notwithstanding paragraph (a), any clinic with two or fewer practicing physicians is exempt from this subdivision if the clinic is making a good-faith effort to meet the electronic health records system requirement under section 62J.495 that includes an electronic prescribing component. This paragraph expires January 1, 2015.

**EFFECTIVE DATE.** This section is effective retroactively from January 1, 2011.

Sec. 2. Minnesota Statutes 2010, section 62J.536, subdivision 1, is amended to read:

Subdivision 1. **Electronic claims and eligibility transactions required.** (a) Beginning January 15, 2009, all group purchasers must accept from health care providers the eligibility for a health plan transaction described under Code of Federal Regulations, title 45, part 162, subpart L. Beginning July 15, 2009, all group purchasers must accept from health care providers the health care claims or equivalent encounter information transaction described under Code of Federal Regulations, title 45, part 162, subpart K.

(b) Beginning January 15, 2009, all group purchasers must transmit to providers the eligibility for a health plan transaction described under Code of Federal Regulations, title 45, part 162, subpart L. Beginning December 15, 2009, all group purchasers must transmit to providers the health care payment and remittance advice transaction described under Code of Federal Regulations, title 45, part 162, subpart P.

(c) Beginning January 15, 2009, all health care providers must submit to group purchasers the eligibility for a health plan transaction described under Code of Federal Regulations, title 45, part 162, subpart L. Beginning July 15, 2009, all health care providers must submit to group purchasers the health care claims or equivalent encounter information transaction described under Code of Federal Regulations, title 45, part 162, subpart K.

(d) Beginning January 15, 2009, all health care providers must accept from group purchasers the eligibility for a health plan transaction described under Code of Federal Regulations, title 45, part 162, subpart L. Beginning December 15, 2009, all health care providers must accept from group purchasers the health care payment and remittance advice transaction described under Code of Federal Regulations, title 45, part 162, subpart P.

(e) Beginning January 1, 2012, all health care providers, health care clearinghouses, and group purchasers must provide an appropriate, standard, electronic acknowledgment when receiving the health care claims or equivalent encounter information transaction or the health care payment and remittance advice transaction. An appropriate, standard, electronic National Council for Prescription Drug Programs response must be used for prescription drug claims or equivalent encounter information. The acknowledgment provided for claims or equivalent encounter information, other than for prescription drugs, must be based on one or more of the following American National Standards Institute, Accredited Standards Committee X12 standard transactions:

(1) TA1;

(2) ~~997~~;

~~(3)~~ 999; or

~~(4)~~ (3) 277CA.

Health care providers, health care clearinghouses, and group purchasers may send and receive more than one type of standard acknowledgment as mutually agreed upon. The mutually agreed upon acknowledgments must be exchanged electronically. Electronic exchanges of acknowledgments do not include e-mail or facsimile.

(f) Each of the transactions described in paragraphs (a) to (e) shall require the use of a single, uniform companion guide to the implementation guides described under Code of Federal Regulations, title 45, part 162. The companion guides will be developed pursuant to subdivision 2.

(g) Notwithstanding any other provisions in sections 62J.50 to 62J.61, all group purchasers and health care providers must exchange claims and eligibility information electronically using the transactions, companion guides, implementation guides, and timelines required under this subdivision. Group purchasers may not impose any fee on providers or providers' clearinghouses for the use of the transactions prescribed in this subdivision. Health care providers may not impose a fee on group purchasers or group purchasers' clearinghouses for the use of the transactions prescribed in this subdivision. A clearinghouse may not charge a fee solely to receive a standard transaction from a health care provider, a health care provider's clearinghouse, a group purchaser, or a group purchaser's clearinghouse when it is not an agent of the sending entity. A clearinghouse may not charge a fee solely to send a standard transaction to a health care provider, a health care provider's clearinghouse, a group purchaser, or a group purchaser's clearinghouse when it is not an agent of the receiving entity.

(h) Nothing in this subdivision shall prohibit group purchasers and health care providers from using a direct data entry, Web-based methodology for complying with the requirements of this subdivision. Any direct data entry method for conducting the transactions specified in this subdivision must be consistent with the data content component of the single, uniform companion guides required in paragraph (f) and the implementation guides described under Code of Federal Regulations, title 45, part 162.

**EFFECTIVE DATE.** This section is effective July 1, 2012.

Sec. 3. Minnesota Statutes 2010, section 256.962, is amended by adding a subdivision to read:

Subd. 8. **Coverage dates.** The commissioner, upon the request of a managed care or county-based purchasing plan, shall include the end of coverage dates on the monthly rosters of medical assistance and MinnesotaCare enrollees provided to the plans. The commissioner may assess plans a fee for the cost of producing the monthly roster of enrollees with end of coverage dates.

## ARTICLE 2 HUMAN SERVICES

Section 1. Minnesota Statutes 2010, section 256.0112, is amended by adding a subdivision to read:

Subd. 9. **Contracting for performance.** In addition to the agreements in subdivision 8, a local agency may negotiate a supplemental agreement to a contract executed between a lead agency and an approved vendor under subdivision 6 for the purposes of contracting for specific performance. The supplemental agreement may augment the lead contract requirements and rates for services authorized by that local agency only. The additional provisions must be negotiated with the vendor and designed to encourage successful, timely, and cost-effective outcomes for clients, and may establish incentive payments, penalties, performance-related reporting requirements, and similar conditions. The per diem rate allowed under this subdivision must not be less than the rate established in the lead county contract. Nothing in the supplemental agreement between a local agency and an approved vendor binds the lead agency or other local agencies to the terms and conditions of the supplemental agreement.

Sec. 2. Minnesota Statutes 2010, section 256J.575, subdivision 1, is amended to read:

Subdivision 1. **Purpose.** ~~(a) The~~ Family stabilization services serve families who are not making significant progress within the regular employment and training services track of the Minnesota family investment program (MFIP) due to a variety of barriers to employment.

~~(b) The goal of the services is to stabilize and improve the lives of families at risk of long term welfare dependency or family instability due to employment barriers such as physical disability, mental disability, age, or providing care for a disabled household member. These services promote and support families to achieve the greatest possible degree of self sufficiency.~~

Sec. 3. Minnesota Statutes 2010, section 256J.575, subdivision 2, is amended to read:

Subd. 2. **Definitions.** The terms used in this section have the meanings given them in paragraphs (a) ~~to (d)~~ and (b).

~~(a) "Case manager" means the county designated staff person or employment services counselor.~~

~~(b) "Case management" "Family stabilization services" means the programs, activities, and services provided by or through the county agency or through the employment services agency to participating families, including Services include, but are not limited to, assessment as defined in section 256J.521, subdivision 1, information, referrals, and assistance in the preparation and implementation of a family stabilization plan under subdivision 5.~~

~~(e) (b) "Family stabilization plan" means a plan developed by a case manager and with the participant, which identifies the participant's most appropriate path to unsubsidized employment, family stability, and barrier reduction, taking into account the family's circumstances.~~

~~(d) "Family stabilization services" means programs, activities, and services in this section that provide participants and their family members with assistance regarding, but not limited to:~~

~~(1) obtaining and retaining unsubsidized employment;~~

~~(2) family stability;~~

~~(3) economic stability; and~~

~~(4) barrier reduction.~~

~~The goal of the services is to achieve the greatest degree of economic self sufficiency and family well being possible for the family under the circumstances.~~

Sec. 4. Minnesota Statutes 2010, section 256J.575, subdivision 5, is amended to read:

Subd. 5. **Case management; Family stabilization plans; eordinated services.** (a) The county agency or employment services provider shall provide ~~family stabilization services to families through a case management model. A case manager shall be assigned to each participating family within 30 days after the family is determined to be eligible for family stabilization services. The case manager, with the full involvement of the participant, shall recommend, and the county agency shall establish and modify as necessary,~~ a family stabilization plan for each participating family. Once a participant has been determined eligible for family stabilization services, the county agency or employment services provider must attempt to meet with the participant to develop a plan within 30 days.

(b) If a participant is already assigned to a county case manager or a county-designated case manager in social services, disability services, or housing services that case manager already assigned may be the case manager for purposes of these services.

~~(b) The family stabilization plan must include:~~

~~(1) each participant's plan for long term self sufficiency, including an employment goal where applicable;~~

~~(2) an assessment of each participant's strengths and barriers, and any special circumstances of the participant's family that impact, or are likely to impact, the participant's progress towards the goals in the plan; and~~

~~(3) an identification of the services, supports, education, training, and accommodations needed to reduce or overcome any barriers to enable the family to achieve self sufficiency and to fulfill each caregiver's personal and family responsibilities.~~

~~(c) The case manager and the participant shall meet within 30 days of the family's referral to the case manager. The initial family stabilization plan must be completed within 30 days of the first meeting with the case manager. The case manager shall establish a schedule for periodic review of the family stabilization plan that includes personal contact with the participant at least once per month. In addition, the case manager shall review and, if necessary, modify the plan under the following circumstances:~~

~~(1) there is a lack of satisfactory progress in achieving the goals of the plan;~~

~~(2) the participant has lost unsubsidized or subsidized employment;~~

~~(3) a family member has failed or is unable to comply with a family stabilization plan requirement;~~

~~(4) services, supports, or other activities required by the plan are unavailable;~~

~~(5) changes to the plan are needed to promote the well being of the children; or~~

~~(6) the participant and case manager determine that the plan is no longer appropriate for any other reason.~~

(c) Participants determined eligible for family stabilization services must have access to employment and training services under sections 256J.515 to 256J.575, to the extent these services are available to other MFIP participants.

Sec. 5. Minnesota Statutes 2010, section 256J.575, subdivision 6, is amended to read:

Subd. 6. **Cooperation with services requirements.** ~~(a)~~ A participant who is eligible for family stabilization services ~~under this section shall comply with paragraphs (b) to (d).~~

~~(b) Participants shall engage in family stabilization plan services for the appropriate number of hours per week that the activities are scheduled and available, based on the needs of the participant and the participant's family, unless good cause exists for not doing so, as defined in section 256J.57, subdivision 1. The appropriate number of hours must be based on the participant's plan.~~

~~(c) The case manager shall review the participant's progress toward the goals in the family stabilization plan every six months to determine whether conditions have changed, including whether revisions to the plan are needed.~~

~~(d) A participant's requirement to comply with any or all family stabilization plan requirements under this subdivision is excused when the case management services, training and educational services, or family support services identified in the participant's family stabilization plan are unavailable for reasons beyond the control of the participant, including when money appropriated is not sufficient to provide the services.~~

Sec. 6. Minnesota Statutes 2010, section 256J.575, subdivision 8, is amended to read:

Subd. 8. **Funding.** (a) The commissioner of human services shall treat MFIP expenditures made to or on behalf of any minor child under this section, who is part of a household that meets criteria in subdivision 3, as expenditures under a separately funded state program. These expenditures shall not count toward the state's maintenance of effort requirements under the federal TANF program.

(b) A family is no longer part of a separately funded program under this section if the caregiver no longer meets the criteria for family stabilization services in subdivision 3, ~~or if it is determined at recertification that a caregiver with a child under the age of six is working at least 87 hours per month in paid or unpaid employment, or a caregiver without a child under the age of six is working at least 130 hours per month in paid or unpaid employment, whichever occurs sooner.~~

Sec. 7. **RECIPROCAL AGREEMENT; CHILD SUPPORT ENFORCEMENT.**

The commissioner of human services shall initiate procedures no later than October 1, 2012, to enter into a reciprocal agreement with Bermuda for the establishment and enforcement of child support obligations under United States Code, title 42, section 659a(d).

**EFFECTIVE DATE.** This section is effective upon Bermuda's written acceptance and agreement to enforce Minnesota child support orders. If Bermuda does not accept and declines to enforce Minnesota orders, this section expires December 31, 2013.

### ARTICLE 3 DISABILITY SERVICES

Section 1. Minnesota Statutes 2011 Supplement, section 256B.0911, subdivision 3a, is amended to read:

Subd. 3a. **Assessment and support planning.** (a) Persons requesting assessment, services planning, or other assistance intended to support community-based living, including persons who need assessment in order to determine waiver or alternative care program eligibility, must be visited by a long-term care consultation team within 15 calendar days after the date on which an assessment was requested or recommended. After January 1, 2011, these requirements also apply to personal care assistance services, private duty nursing, and home health agency services, on timelines established in subdivision 5. Face-to-face assessments must be conducted according to paragraphs (b) to (i).

(b) The county may utilize a team of either the social worker or public health nurse, or both. After January 1, 2011, lead agencies shall use certified assessors to conduct the assessment in a face-to-face interview. The consultation team members must confer regarding the most appropriate care for each individual screened or assessed.

(c) The assessment must be comprehensive and include a person-centered assessment of the health, psychological, functional, environmental, and social needs of referred individuals and provide information necessary to develop a support plan that meets the consumers needs, using an assessment form provided by the commissioner.

(d) The assessment must be conducted in a face-to-face interview with the person being assessed and the person's legal representative, as required by legally executed documents, and other individuals as requested by the person, who can provide information on the needs, strengths, and preferences of the person necessary to develop a support plan that ensures the person's health and safety, but who is not a provider of service or has any financial interest in the provision of services. For persons who are to be assessed for elderly waiver customized living services under section 256B.0915, with the permission of the person being assessed or the person's designated or legal representative, the client's current or proposed provider of services may submit a copy of the provider's nursing assessment or written report outlining its recommendations regarding the client's care needs. The person conducting the assessment will notify the provider of the date by which this information is to be submitted. This information shall be provided to the person conducting the assessment prior to the assessment.

(e) The person, or the person's legal representative, must be provided with written recommendations for community-based services, including consumer-directed options, or institutional care that include documentation that the most cost-effective alternatives available were offered to the individual, and alternatives to residential settings, including, but not limited to, foster care settings that are not the primary residence of the license holder. For purposes of this requirement, "cost-effective alternatives" means community services and living arrangements that cost the same as or less than institutional care.

(f) If the person chooses to use community-based services, the person or the person's legal representative must be provided with a written community support plan, regardless of whether the individual is eligible for Minnesota health care programs. A person may request assistance in identifying community supports without participating in a complete assessment. Upon a request for assistance identifying community support, the person must be transferred or referred to the services available under sections 256.975, subdivision 7, and 256.01, subdivision 24, for telephone assistance and follow up.

(g) The person has the right to make the final decision between institutional placement and community placement after the recommendations have been provided, except as provided in subdivision 4a, paragraph (c).

(h) The team must give the person receiving assessment or support planning, or the person's legal representative, materials, and forms supplied by the commissioner containing the following information:

- (1) the need for and purpose of preadmission screening if the person selects nursing facility placement;
- (2) the role of the long-term care consultation assessment and support planning in waiver and alternative care program eligibility determination;
- (3) information about Minnesota health care programs;
- (4) the person's freedom to accept or reject the recommendations of the team;
- (5) the person's right to confidentiality under the Minnesota Government Data Practices Act, chapter 13;
- (6) the long-term care consultant's decision regarding the person's need for institutional level of care as determined under criteria established in section 144.0724, subdivision 11, or 256B.092; and
- (7) the person's right to appeal the decision regarding the need for nursing facility level of care or the county's final decisions regarding public programs eligibility according to section 256.045, subdivision 3.

(i) Face-to-face assessment completed as part of eligibility determination for the alternative care, elderly waiver, community alternatives for disabled individuals, community alternative care, and traumatic brain injury waiver programs under sections 256B.0915, 256B.0917, and 256B.49 is valid to establish service eligibility for no more

than 60 calendar days after the date of assessment. The effective eligibility start date for these programs can never be prior to the date of assessment. If an assessment was completed more than 60 days before the effective waiver or alternative care program eligibility start date, assessment and support plan information must be updated in a face-to-face visit and documented in the department's Medicaid Management Information System (MMIS). The effective date of program eligibility in this case cannot be prior to the date the updated assessment is completed.

Sec. 2. Minnesota Statutes 2011 Supplement, section 256B.0915, subdivision 3e, is amended to read:

Subd. 3e. **Customized living service rate.** (a) Payment for customized living services shall be a monthly rate authorized by the lead agency within the parameters established by the commissioner. The payment agreement must delineate the amount of each component service included in the recipient's customized living service plan. The lead agency, with input from the provider of customized living services, shall ensure that there is a documented need within the parameters established by the commissioner for all component customized living services authorized.

(b) The payment rate must be based on the amount of component services to be provided utilizing component rates established by the commissioner. Counties and tribes shall use tools issued by the commissioner to develop and document customized living service plans and rates.

(c) Component service rates must not exceed payment rates for comparable elderly waiver or medical assistance services and must reflect economies of scale. Customized living services must not include rent or raw food costs.

(d) With the exception of individuals described in subdivision 3a, paragraph (b), the individualized monthly authorized payment for the customized living service plan shall not exceed 50 percent of the greater of either the statewide or any of the geographic groups' weighted average monthly nursing facility rate of the case mix resident class to which the elderly waiver eligible client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, less the maintenance needs allowance as described in subdivision 1d, paragraph (a), until the July 1 of the state fiscal year in which the resident assessment system as described in section 256B.438 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.438 for nursing home rate determination is implemented and July 1 of each subsequent state fiscal year, the individualized monthly authorized payment for the services described in this clause shall not exceed the limit which was in effect on June 30 of the previous state fiscal year updated annually based on legislatively adopted changes to all service rate maximums for home and community-based service providers.

(e) Effective July 1, 2011, the individualized monthly payment for the customized living service plan for individuals described in subdivision 3a, paragraph (b), must be the monthly authorized payment limit for customized living for individuals classified as case mix A, reduced by 25 percent. This rate limit must be applied to all new participants enrolled in the program on or after July 1, 2011, who meet the criteria described in subdivision 3a, paragraph (b). This monthly limit also applies to all other participants who meet the criteria described in subdivision 3a, paragraph (b), at reassessment.

(f) Customized living services are delivered by a provider licensed by the Department of Health as a class A or class F home care provider and provided in a building that is registered as a housing with services establishment under chapter 144D. Licensed home care providers are subject to section 256B.0651, subdivision 14.

(g) A provider may not bill or otherwise charge an elderly waiver participant or their family for additional units of any allowable component service beyond those available under the service rate limits described in paragraph (d), nor for additional units of any allowable component service beyond those approved in the service plan by the lead agency.

Sec. 3. Minnesota Statutes 2011 Supplement, section 256B.0915, subdivision 3h, is amended to read:

Subd. 3h. **Service rate limits; 24-hour customized living services.** (a) The payment rate for 24-hour customized living services is a monthly rate authorized by the lead agency within the parameters established by the commissioner of human services. The payment agreement must delineate the amount of each component service included in each recipient's customized living service plan. The lead agency, with input from the provider of customized living services, shall ensure that there is a documented need within the parameters established by the commissioner for all component customized living services authorized. The lead agency shall not authorize 24-hour customized living services unless there is a documented need for 24-hour supervision.

(b) For purposes of this section, "24-hour supervision" means that the recipient requires assistance due to needs related to one or more of the following:

- (1) intermittent assistance with toileting, positioning, or transferring;
- (2) cognitive or behavioral issues;
- (3) a medical condition that requires clinical monitoring; or

(4) for all new participants enrolled in the program on or after July 1, 2011, and all other participants at their first reassessment after July 1, 2011, dependency in at least three of the following activities of daily living as determined by assessment under section 256B.0911: bathing; dressing; grooming; walking; or eating when the dependency score in eating is three or greater; and needs medication management and at least 50 hours of service per month. The lead agency shall ensure that the frequency and mode of supervision of the recipient and the qualifications of staff providing supervision are described and meet the needs of the recipient.

(c) The payment rate for 24-hour customized living services must be based on the amount of component services to be provided utilizing component rates established by the commissioner. Counties and tribes will use tools issued by the commissioner to develop and document customized living plans and authorize rates.

(d) Component service rates must not exceed payment rates for comparable elderly waiver or medical assistance services and must reflect economies of scale.

(e) The individually authorized 24-hour customized living payments, in combination with the payment for other elderly waiver services, including case management, must not exceed the recipient's community budget cap specified in subdivision 3a. Customized living services must not include rent or raw food costs.

(f) The individually authorized 24-hour customized living payment rates shall not exceed the 95 percentile of statewide monthly authorizations for 24-hour customized living services in effect and in the Medicaid management information systems on March 31, 2009, for each case mix resident class under Minnesota Rules, parts 9549.0050 to 9549.0059, to which elderly waiver service clients are assigned. When there are fewer than 50 authorizations in effect in the case mix resident class, the commissioner shall multiply the calculated service payment rate maximum for the A classification by the standard weight for that classification under Minnesota Rules, parts 9549.0050 to 9549.0059, to determine the applicable payment rate maximum. Service payment rate maximums shall be updated annually based on legislatively adopted changes to all service rates for home and community-based service providers.

(g) Notwithstanding the requirements of paragraphs (d) and (f), the commissioner may establish alternative payment rate systems for 24-hour customized living services in housing with services establishments which are freestanding buildings with a capacity of 16 or fewer, by applying a single hourly rate for covered component services provided in either:

(1) licensed corporate adult foster homes; or

(2) specialized dementia care units which meet the requirements of section 144D.065 and in which:

(i) each resident is offered the option of having their own apartment; or

(ii) the units are licensed as board and lodge establishments with maximum capacity of eight residents, and which meet the requirements of Minnesota Rules, part 9555.6205, subparts 1, 2, 3, and 4, item A.

(h) A provider may not bill or otherwise charge an elderly waiver participant or their family for additional units of any allowable component service beyond those available under the service rate limits described in paragraph (e), nor for additional units of any allowable component service beyond those approved in the service plan by the lead agency."

Delete the title and insert:

"A bill for an act relating to human services; changing a requirement for electronic claims and electronic transactions; making changes to health care and disability services provisions; providing for a supplemental agreement to a contract for community social services; making changes to family stabilization services provisions; requiring procedures to establish a reciprocal child support agreement with Bermuda; amending Minnesota Statutes 2010, sections 62J.497, subdivision 2; 62J.536, subdivision 1; 256.0112, by adding a subdivision; 256.962, by adding a subdivision; 256J.575, subdivisions 1, 2, 5, 6, 8; Minnesota Statutes 2011 Supplement, sections 256B.0911, subdivision 3a; 256B.0915, subdivisions 3e, 3h."

With the recommendation that when so amended the bill pass.

The report was adopted.

Lanning from the Committee on State Government Finance to which was referred:

H. F. No. 2720, A bill for an act relating to state government; making changes to budget preparation requirements; amending Minnesota Statutes 2010, section 16A.10.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2010, section 16A.10, is amended to read:

**16A.10 BUDGET PREPARATION.**

Subdivision 1. **Budget format.** (a) In each even-numbered calendar year the commissioner shall prepare budget forms and instructions for all agencies, ~~including guidelines for reporting agency performance measures,~~ subject to the approval of the governor. These forms and instructions shall include guidelines for:

(1) classifying revenue by:

(i) fund;

(ii) program;

(iii) activity; and

(iv) source of revenue;

(2) classifying expenditures by:

(i) fund;

(ii) program;

(iii) activity;

(iv) character or object of expenditure; and

(v) outcome; and

(3) reporting performance.

(b) The commissioner shall request and receive advisory recommendations from the chairs of the senate Finance Committee and house of representatives Ways and Means Committee before adopting a format for the biennial budget document. By June 15, the commissioner shall send the proposed budget forms to the appropriations and finance committees. The committees have until July 15 to give the commissioner their advisory recommendations on possible improvements. To facilitate this consultation, the commissioner shall establish a working group consisting of executive branch staff and designees of the chairs of the senate Finance and house of representatives Ways and Means Committees. The commissioner must involve this group in all stages of development of budget forms and instructions. The budget format must show actual expenditures and receipts for the most recent fiscal year, estimated expenditures and receipts for the current fiscal year, and estimates for each fiscal year of the next biennium. Estimated expenditures must be classified by funds and character of expenditures and may be subclassified by programs and activities. Agency revenue estimates must show how the estimates were made and what factors were used. Receipts must be classified by funds, programs, and activities. Expenditure and revenue estimates must be based on the law in existence at the time the estimates are prepared.

Subd. 1a. **Purpose of performance data.** Performance data shall be presented in the budget proposal to:

(1) provide information so that the governor, legislature, and public can determine the extent to which state agencies, programs, and activities are successful;

(2) encourage agencies to develop clear and measurable goals and objectives for their programs and activities; and

(3) strengthen accountability to Minnesotans by providing a record of state government's performance in providing effective and efficient services and achieving statewide outcomes.

Subd. 1b. **Performance data format.** (a) As part of the budget proposal, agencies shall:

(1) describe the goals and objectives of each agency program and activity;

(2) provide evidence for how each agency program and activity goal and objective contributes to achieving one statewide outcome; and

(3) present performance data that measures the performance of programs and activities in meeting ~~program~~ the agency's goals and objectives and contributing to one statewide outcome.

(b) Measures reported may include indicators of outputs, efficiency, outcomes, effectiveness, and other measures relevant to understanding each program and activity.

(c) Agencies shall present as much historical information as needed to understand major trends and shall set targets for future performance issues where feasible and appropriate. The information shall appropriately highlight agency performance issues that would assist legislative review and decision making.

(d) For purposes of this subdivision and subdivisions 1 and 2, the terms "program" and "activity" are used in the same manner as the terms are used in state budgeting. However, the commissioner may authorize an agency to define these terms in a different manner if that allows for a more effective presentation of performance data. The term "statewide outcome" means an outcome included in the chart of outcomes developed under subdivision 4.

Subd. 1c. **Performance measures for change items.** For each change item in the budget proposal requesting new or increased funding, the budget document must classify expenditures by agency, program, activity, and statewide outcome, and present proposed performance measures that can be used to determine if the new or increased funding is accomplishing its goals. To the extent possible, each budget change item must identify relevant Minnesota Milestones and other statewide goals and indicators related to the proposed initiative. The commissioner must report to the Subcommittee on Government Accountability established under section 3.885, subdivision 10, regarding the format to be used for the presentation and selection of Minnesota Milestones and other statewide goals and indicators.

Subd. 2. **By October 15 and November 30.** By October 15 of each even-numbered year, an agency must file the following with the commissioner:

- (1) budget estimates for the most recent and current fiscal years;
- (2) its upcoming biennial budget estimates;
- (3) a comprehensive and integrated statement of agency missions and outcome and performance measures; ~~and~~
- (4) a concise explanation of any planned changes in the level of services or new activities; and

(5) a comprehensive list that links every budget program, activity, and appropriation with the one statewide core outcome that it primarily supports; and

(6) after June 30, 2014, a comprehensive list that links every budget program, activity, and appropriation with the one statewide contributing outcome that it primarily supports.

The commissioner shall prepare and file the budget estimates for an agency failing to file them. By November 30, the commissioner shall send the final budget format, agency budget estimates for the next biennium, and copies of the filed material to the Ways and Means and Finance Committees, except that the commissioner shall not be required to transmit information that identifies executive branch budget decision items.

Subd. 3. **Duties to governor-elect.** Immediately after the election of a new governor, the commissioner shall report the budget estimates and make available to the governor-elect all department information, staff, and facilities relating to the budget.

Subd. 4. **Chart of outcomes.** The Statewide Budgeting System and the Statewide Accounting System must include a chart of outcomes to be used for classifying all agency programs, activities, and allotments. The chart of outcomes must include:

(1) up to ten state-level core outcomes that citizens expect from government;

(2) three to five state-level contributing outcomes that evidence shows most contribute to achieving each state-level core outcome in clause (1); and

(3) a performance measure for each state-level core outcome and each contributing outcome.

**EFFECTIVE DATE.** This section is effective upon enactment of a law approving the chart of outcomes, according to section 2, and must be implemented as soon as possible after that date.

**Sec. 2. ESTABLISHMENT OF INITIAL CHART OF OUTCOMES.**

The commissioner of management and budget, in consultation with the chairs and ranking minority members of the house of representatives Ways and Means and senate Finance Committees and legislative staff designated by those legislators, must report a proposed chart of outcomes to the Legislative Commission on Planning and Fiscal Policy by October 15, 2012. The chart of outcomes must be implemented as soon as possible after enactment of a law approving the chart of outcomes."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Hoppe from the Committee on Commerce and Regulatory Reform to which was referred:

H. F. No. 2732, A bill for an act relating to occupational licensing; modifying electrical licenses; amending Minnesota Statutes 2010, sections 326B.31, subdivision 14, by adding subdivisions; 326B.33, subdivision 19, by adding a subdivision.

Reported the same back with the following amendments:

Page 1, line 17, after "equipment" insert "for a residential dwelling"

Page 2, after line 4, insert:

"Sec. 4. Minnesota Statutes 2010, section 326B.31, is amended by adding a subdivision to read:

Subd. 33. **Satellite system contractor.** "Satellite system contractor" means a licensed contractor whose responsible licensed individual is a licensed satellite system installer."

Page 2, line 12, delete the third "or" and insert "and"

Page 2, line 13, delete "board" and insert "department"

Page 2, line 16, delete the second "approved"

Page 2, line 17, delete "or"

Page 2, line 19, delete "limited"

Page 2, line 20, after "power" insert "limited"

Page 2, line 23, delete "Licensees" and insert "Satellite system installers" and delete "eight" and insert "four"

Page 2, line 24, delete "board" and insert "Board of Electricity"

Page 2, after line 24, insert:

"Sec. 6. Minnesota Statutes 2010, section 326B.33, subdivision 17, is amended to read:

Subd. 17. **Employment of master electrician, satellite system installer, or power limited technician.** (a) Each contractor must designate a responsible master electrician, satellite system installer, or power limited technician, who shall be responsible for the performance of all electrical work in accordance with the requirements of sections 326B.31 to 326B.399, all rules adopted under these sections, and all orders issued under section 326B.082. The classes of work that a licensed contractor is authorized to perform shall be limited to the classes of work that the responsible master electrician, satellite system installer, or power limited electrician is licensed to perform.

(b) When a contractor's license is held by an individual, sole proprietorship, partnership, limited liability company, or corporation and the individual, proprietor, one of the partners, one of the members, or an officer of the corporation, respectively, is not the responsible master electrician or power limited technician, all requests for inspection shall be signed by the responsible master electrician, satellite system installer, or power limited technician. If the contractor is an individual or a sole proprietorship, the responsible licensed individual must be the individual, proprietor, or managing employee. If the contractor is a partnership, the responsible licensed individual must be a general partner or managing employee. If the licensed contractor is a limited liability company, the responsible licensed individual must be a chief manager or managing employee. If the contractor is a corporation, the responsible licensed individual must be an officer or managing employee. If the responsible licensed individual is a managing employee, the responsible licensed individual must be actively engaged in performing electrical work on behalf of the contractor, and cannot be employed in any capacity as an electrician, installer, or technician by any other contractor or employer designated in subdivision 21. An individual may be the responsible licensed individual for only one contractor or employer.

(c) All applications and renewals for contractor licenses shall include a verified statement that the applicant or licensee has complied with this subdivision."

Re-number the sections in sequence and correct the internal references

Correct the title numbers accordingly

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Jobs and Economic Development Finance.

The report was adopted.

Beard from the Committee on Transportation Policy and Finance to which was referred:

H. F. No. 2736, A bill for an act relating to public safety; motor vehicles; motor vehicle dealer regulations; expanding the class of eligible buyers for junked vehicles; amending Minnesota Statutes 2010, sections 168.27, subdivisions 2, 3, 3c; 168A.151, subdivision 6; repealing Minnesota Rules, part 7400.5300, subpart 3.

Reported the same back with the following amendments:

Page 3, delete section 5 and insert:

"Sec. 5. **RULE CHANGE.**

The commissioner shall amend Minnesota Rules, part 7400.5300, subpart 3, to remove the words "from Minnesota" and to allow a dealer to sell a junked vehicle as described in Minnesota Rules, part 7400.5300, subpart 3, to a purchaser whom the dealer verifies is a licensed scrap metal processor. The commissioner must comply with Minnesota Statutes, section 14.389, subdivision 5, in adopting the amendment."

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "directing the commissioner of public safety to make certain changes to Minnesota Rules;"

Correct the title numbers accordingly

With the recommendation that when so amended the bill pass.

The report was adopted.

McNamara from the Committee on Environment, Energy and Natural Resources Policy and Finance to which was referred:

H. F. No. 2747, A bill for an act relating to utilities; modifying the reporting obligations of certain cooperative utilities under the integrated resource planning process; amending Minnesota Statutes 2010, section 216B.2422, by adding a subdivision.

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

The report was adopted.

Erickson from the Committee on Education Reform to which was referred:

H. F. No. 2835, A bill for an act relating to education; clarifying an education provision; amending Minnesota Statutes 2010, section 120A.22, subdivision 1.

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

The report was adopted.

**SECOND READING OF HOUSE BILLS**

H. F. Nos. 1175, 2226, 2532, 2627, 2736, 2747 and 2835 were read for the second time.

**INTRODUCTION AND FIRST READING OF HOUSE BILLS**

The following House Files were introduced:

Morrow introduced:

H. F. No. 2955, A bill for an act relating to housing; providing for the Minnesota Cooperative Housing Act; proposing coding for new law as Minnesota Statutes, chapter 308C.

The bill was read for the first time and referred to the Committee on Commerce and Regulatory Reform.

Paymar introduced:

H. F. No. 2956, A bill for an act relating to the legislature; imposing a moratorium on enactment of new tax credits; proposing coding for new law in Minnesota Statutes, chapter 3.

The bill was read for the first time and referred to the Committee on Taxes.

Quam introduced:

H. F. No. 2957, A bill for an act relating to capital investment; extending an appropriation for the Stagecoach Trail; amending Laws 2008, chapter 179, section 7, subdivision 27.

The bill was read for the first time and referred to the Committee on Environment, Energy and Natural Resources Policy and Finance.

Holberg introduced:

H. F. No. 2958, A bill for an act relating to finance; requiring the Legislative Advisory Commission to consider certain requests to spend federal money; limiting the authority to spend federal money without legislative review to certain emergency management purposes; amending Minnesota Statutes 2010, sections 3.3005, subdivisions 2a, 5, 6; 12.22, subdivision 1; 116.03, subdivision 3; repealing Minnesota Statutes 2010, section 3.3005, subdivision 4.

The bill was read for the first time and referred to the Committee on Ways and Means.

Brynaert, Morrow, Gunther, Cornish, Davids and Abeler introduced:

H. F. No. 2959, A bill for an act relating to motor vehicles; exempting mobile medical units from motor vehicle sales tax; amending Minnesota Statutes 2011 Supplement, section 297B.03.

The bill was read for the first time and referred to the Committee on Transportation Policy and Finance.

Barrett, Drazkowski and McDonald introduced:

H. F. No. 2960, A bill for an act relating to finance; requiring a reduction in general fund appropriations to provide an annual increase in the aid payment percentage for school districts; amending Minnesota Statutes 2011 Supplement, section 127A.45, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 16A.

The bill was read for the first time and referred to the Committee on Education Finance.

Erickson introduced:

H. F. No. 2961, A bill for an act relating to education; amending provisions relating to teacher candidates passing a basic skills examination.

The bill was read for the first time and referred to the Committee on Education Reform.

The Speaker called Lanning to the Chair.

### **MESSAGES FROM THE SENATE**

The following messages were received from the Senate:

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 300, A bill for an act relating to education; recommending comprehensive eye exams; amending Minnesota Statutes 2010, section 121A.17, subdivision 3.

CAL R. LUDEMAN, Secretary of the Senate

### **CONCURRENCE AND REPASSAGE**

Erickson moved that the House concur in the Senate amendments to H. F. No. 300 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 300, A bill for an act relating to education; modifying notice for early childhood developmental screening; amending Minnesota Statutes 2010, section 121A.17, subdivision 3.

The bill was read for the third time, as amended by the Senate, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

|              |            |           |             |              |              |
|--------------|------------|-----------|-------------|--------------|--------------|
| Allen        | Davnie     | Hancock   | Laine       | Morrow       | Scalze       |
| Anderson, B. | Dean       | Hansen    | Lanning     | Mullery      | Schomacker   |
| Anderson, D. | Dettmer    | Hausman   | Leidiger    | Murdock      | Scott        |
| Anderson, P. | Dill       | Hilstrom  | LeMieur     | Murphy, E.   | Shimanski    |
| Anderson, S. | Dittrich   | Hilty     | Lenczewski  | Murphy, M.   | Simon        |
| Anzelc       | Doepke     | Holberg   | Lesch       | Murray       | Slawik       |
| Atkins       | Downey     | Hoppe     | Liebling    | Myhra        | Slocum       |
| Banaian      | Drazkowski | Hornstein | Lillie      | Nelson       | Smith        |
| Barrett      | Eken       | Hortman   | Loeffler    | Nornes       | Stensrud     |
| Beard        | Erickson   | Hosch     | Lohmer      | Norton       | Swedzinski   |
| Benson, J.   | Fabian     | Howes     | Loon        | O'Driscoll   | Thissen      |
| Benson, M.   | Falk       | Huntley   | Mack        | Paymar       | Torkelson    |
| Bills        | Franson    | Johnson   | Mahoney     | Pelowski     | Urdahl       |
| Brynaert     | Fritz      | Kahn      | Mariani     | Peppin       | Vogel        |
| Buesgens     | Garofalo   | Kath      | Marquart    | Persell      | Wagenius     |
| Carlson      | Gauthier   | Kelly     | Mazorol     | Petersen, B. | Ward         |
| Champion     | Gottwalt   | Kieffer   | McDonald    | Peterson, S. | Wardlow      |
| Clark        | Greiling   | Kiel      | McElfatrick | Poppe        | Westrom      |
| Cornish      | Gruenhagen | Kiffmeyer | McFarlane   | Quam         | Winkler      |
| Crawford     | Gunther    | Knuth     | McNamara    | Rukavina     | Woodard      |
| Daudt        | Hackbarth  | Koenen    | Melin       | Runbeck      | Spk. Zellers |
| Davids       | Hamilton   | Kriesel   | Moran       | Sanders      |              |

The bill was repassed, as amended by the Senate, and its title agreed to.

Mr. Speaker:

I hereby announce the passage by the Senate of the following Senate Files, herewith transmitted:

S. F. Nos. 1843,1975 and 2493.

CAL R. LUDEMAN, Secretary of the Senate

### **FIRST READING OF SENATE BILLS**

S. F. No. 1843, A bill for an act relating to natural resources; providing for continued operation of state parks and recreation areas when biennial appropriations have not been enacted; appropriating money; amending Minnesota Statutes 2010, section 85.055, subdivision 2.

The bill was read for the first time and referred to the Committee on Environment, Energy and Natural Resources Policy and Finance.

S. F. No. 1975, A bill for an act relating to state government; appropriating money to the Racing Commission, the Gambling Control Board, and the State Lottery for operations on an ongoing basis; appropriating money to management and budget for functions that support ongoing operations of the Racing Commission, the Gambling Control Board and the State Lottery; amending Minnesota Statutes 2010, sections 240.15, subdivision 6; 240.155, subdivision 1; 240.30, subdivision 9; 349.151, subdivision 4, by adding a subdivision; 349A.10, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 240.

The bill was read for the first time and referred to the Committee on Commerce and Regulatory Reform.

S. F. No. 2493, A bill for an act relating to natural resources; appropriating money from the outdoor heritage fund; modifying requirements for outdoor heritage fund appropriations; appropriating money for clean water; appropriating money for an Aquatic Invasive Species Cooperative Research Center; modifying prior appropriations; modifying certain parks and trails grant program provisions; amending Minnesota Statutes 2010, sections 85.535, subdivision 3; 97A.056, by adding subdivisions; Laws 2009, chapter 172, article 3, section 3; Laws 2011, First Special Session chapter 2, article 3, section 2, subdivision 9; Laws 2011, First Special Session chapter 6, article 2, section 7.

The bill was read for the first time and referred to the Committee on Environment, Energy and Natural Resources Policy and Finance.

The following Conference Committee Report was received:

#### CONFERENCE COMMITTEE REPORT ON H. F. NO. 392

A bill for an act relating to education; modifying provisions relating to school bus safety and standards; amending Minnesota Statutes 2010, sections 169.4501, subdivisions 1, 2; 169.4503, subdivisions 5, 20, by adding subdivisions; repealing Minnesota Statutes 2010, section 169.454, subdivision 10.

March 15, 2012

The Honorable Kurt Zellers  
Speaker of the House of Representatives

The Honorable Michelle L. Fischbach  
President of the Senate

We, the undersigned conferees for H. F. No. 392 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H. F. No. 392 be further amended as follows:

Page 2, lines 8 and 10, delete "2011" and insert "2012"

Page 3, line 2, delete "2012" and insert "2013"

Page 3, lines 8 and 20, delete "2011" and insert "2012"

Page 3, delete section 8 and insert:

"Sec. 8. Minnesota Statutes 2010, section 169.4582, subdivision 2, is amended to read:

Subd. 2. **Duty to report; school official.** Consistent with the school bus safety policy under section 123B.91, subdivision 1, the school principal, the school transportation safety director, or other designated school official shall immediately report to the local law enforcement agency having jurisdiction where the misbehavior occurred and to the school superintendent if the reporting school official knows or has reason to believe that a student has committed a reportable offense on a school bus or in a bus loading or unloading area. The reporting school official shall issue a report to the commissioner of public safety concerning the incident ~~on a form developed by the commissioner for that purpose~~ upon request of the commissioner.

Sec. 9. **REPEALER.**

Minnesota Statutes 2010, sections 169.441, subdivision 5; 169.445, subdivision 2; and 169.454, subdivision 10, are repealed."

Correct the title numbers accordingly

We request the adoption of this report and repassage of the bill.

House Conferees: LARRY HOWES, TIM SANDERS and JOHN WARD.

Senate Conferees: PAM WOLF, MIKE PARRY and JOHN M. HARRINGTON.

Howes moved that the report of the Conference Committee on H. F. No. 392 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 392, A bill for an act relating to education; modifying provisions relating to school bus safety and standards; amending Minnesota Statutes 2010, sections 169.4501, subdivisions 1, 2; 169.4503, subdivisions 5, 20, by adding subdivisions; repealing Minnesota Statutes 2010, section 169.454, subdivision 10.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 131 yeas and 1 nay as follows:

Those who voted in the affirmative were:

|              |            |            |            |           |            |
|--------------|------------|------------|------------|-----------|------------|
| Abeler       | Benson, M. | Dettmer    | Garofalo   | Hilty     | Kieffer    |
| Allen        | Bills      | Dill       | Gauthier   | Holberg   | Kiel       |
| Anderson, B. | Brynaert   | Dittrich   | Gottwalt   | Hoppe     | Kiffmeyer  |
| Anderson, D. | Carlson    | Doepke     | Greiling   | Hornstein | Knuth      |
| Anderson, P. | Champion   | Downey     | Gruenhagen | Hortman   | Koenen     |
| Anderson, S. | Clark      | Draskowski | Gunther    | Hosch     | Kriesel    |
| Anzelc       | Cornish    | Eken       | Hackbarth  | Howes     | Laine      |
| Atkins       | Crawford   | Erickson   | Hamilton   | Huntley   | Lanning    |
| Banaian      | Daudt      | Fabian     | Hancock    | Johnson   | Leidiger   |
| Barrett      | Davids     | Falk       | Hansen     | Kahn      | LeMieur    |
| Beard        | Davnie     | Franson    | Hausman    | Kath      | Lenczewski |
| Benson, J.   | Dean       | Fritz      | Hilstrom   | Kelly     | Lesch      |

|          |             |            |              |            |              |
|----------|-------------|------------|--------------|------------|--------------|
| Liebling | McDonald    | Murphy, M. | Persell      | Scott      | Urdahl       |
| Lillie   | McElfatrick | Murray     | Petersen, B. | Shimanski  | Vogel        |
| Loeffler | McFarlane   | Myhra      | Peterson, S. | Simon      | Wagenius     |
| Lohmer   | McNamara    | Nelson     | Poppe        | Slawik     | Ward         |
| Loon     | Melin       | Nornes     | Quam         | Slocum     | Wardlow      |
| Mack     | Moran       | Norton     | Rukavina     | Smith      | Westrom      |
| Mahoney  | Morrow      | O'Driscoll | Runbeck      | Stensrud   | Winkler      |
| Mariani  | Mullery     | Paymar     | Sanders      | Swedzinski | Woodard      |
| Marquart | Murdock     | Pelowski   | Scalze       | Thissen    | Spk. Zellers |
| Mazorol  | Murphy, E.  | Peppin     | Schomacker   | Torkelson  |              |

Those who voted in the negative were:

Buesgens

The bill was repassed, as amended by Conference, and its title agreed to.

### CALENDAR FOR THE DAY

S. F. No. 1567 was reported to the House.

Fabian moved to amend S. F. No. 1567, the fourth engrossment, as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 2095, the second engrossment:

#### "ARTICLE 1 PERMITTING

Section 1. Minnesota Statutes 2011 Supplement, section 84.027, subdivision 14a, is amended to read:

Subd. 14a. **Permitting efficiency.** (a) It is the goal of the state that environmental and resource management permits be issued or denied within 150 days of the submission of a ~~substantially completed~~ permit application. The commissioner of natural resources shall establish management systems designed to achieve the goal.

(b) The commissioner shall prepare semiannual permitting efficiency reports that include statistics on meeting the goal in paragraph (a). The reports are due February 1 and August 1 each year. For permit applications that have not met the goal, the report must state the reasons for not meeting the goal, ~~steps that will be taken to complete action on the application, and the expected timeline.~~ In stating the reasons for not meeting the goal, the commissioner shall separately identify delays caused by the responsiveness of the proposer, lack of staff, scientific or technical disagreements, or the level of public engagement. The report must specify the number of days from initial submission of the application to the day of determination that the application is complete. The report for August 1 each year must aggregate the data for the year and assess whether program or system changes are necessary to achieve the goal. The report must be posted on the department's Web site and submitted to the governor and the chairs and ranking minority members of the house of representatives and senate committees having jurisdiction over natural resources policy and finance.

(c) The commissioner shall allow electronic submission of environmental review and permit documents to the department.

(d) Beginning July 1, 2011, within 30 business days of application for a permit subject to paragraph (a), the commissioner of natural resources shall notify the project proposer, in writing, ~~of whether or not the permit application is complete enough for processing. If the permit is incomplete, the commissioner must identify where whether the application is complete or incomplete. If the commissioner determines that an application is incomplete, the notice to the applicant must enumerate all deficiencies exist, citing specific provisions of the applicable rules and statutes, and advise the applicant on how they the deficiencies can be remedied. A resubmittal of the application begins a new 30 day review period. If the commissioner fails to notify the project proposer of completeness within 30 business days, the application is deemed to be substantially complete and subject to the 150-day permitting review period in paragraph (a) from the date it was submitted.~~ This paragraph does not apply to an application for a permit that is subject to a grant or loan agreement under chapter 446A.

Sec. 2. Minnesota Statutes 2010, section 84.027, is amended by adding a subdivision to read:

Subd. 14b. Irrevocability or suspensions of permits. If, by July 1 of an odd-numbered year, a biennial appropriation law has not been enacted to fund air, water, and land programs at the department, existing permits shall not be terminated or suspended, provided the terms and conditions of the permit and local, state, and federal laws and rules are met, regardless of the state's capability to receive, review, or process fees, reports, or other filings.

Sec. 3. Minnesota Statutes 2010, section 115.03, is amended by adding a subdivision to read:

Subd. 8b. Permit duration; state disposal system permits; animal feedlots. State disposal system permits that are issued without a national pollutant discharge elimination system permit to animal feedlots shall be issued for a term of ten years.

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

Sec. 4. Minnesota Statutes 2011 Supplement, section 116.03, subdivision 2b, is amended to read:

Subd. 2b. **Permitting efficiency.** (a) It is the goal of the state that environmental and resource management permits be issued or denied within 150 days of the submission of a ~~substantially completed~~ permit application. The commissioner of the Pollution Control Agency shall establish management systems designed to achieve the goal.

(b) The commissioner shall prepare semiannual permitting efficiency reports that include statistics on meeting the goal in paragraph (a). The reports are due February 1 and August 1 each year. For permit applications that have not met the goal, the report must state the reasons for not meeting the goal, ~~steps that will be taken to complete action on the application, and the expected timeline.~~ In stating the reasons for not meeting the goal, the commissioner shall separately identify delays caused by the responsiveness of the proposer, lack of staff, scientific or technical disagreements, or the level of public engagement. The report must specify the number of days from initial submission of the application to the day of determination that the application is complete. The report for August 1 each year must aggregate the data for the year and assess whether program or system changes are necessary to achieve the goal. The report must be posted on the agency's Web site and submitted to the governor and the chairs and ranking minority members of the house of representatives and senate committees having jurisdiction over environment policy and finance.

(c) The commissioner shall allow electronic submission of environmental review and permit documents to the agency.

(d) Beginning July 1, 2011, within 30 business days of application for a permit subject to paragraph (a), the commissioner of the Pollution Control Agency shall notify the project proposer, in writing, ~~of whether or not the permit application is complete enough for processing. If the permit is incomplete, the commissioner must identify where~~ whether the application is complete or incomplete. If the commissioner determines that an application is

incomplete, the notice to the applicant must enumerate all deficiencies exist, citing specific provisions of the applicable rules and statutes, and advise the applicant on how they the deficiencies can be remedied. A resubmittal of the application begins a new 30-day review period. If the commissioner fails to notify the project proposer of completeness within 30 business days, the application is deemed to be substantially complete and subject to the 150-day permitting review period in paragraph (a) from the date it was submitted. This paragraph does not apply to an application for a permit that is subject to a grant or loan agreement under chapter 446A.

(e) For purposes of this subdivision, "permit professional" means an individual not employed by the Pollution Control Agency who:

(1) has a professional engineer license issued by the state of Minnesota; and

(2) has at least ten years of experience in the subject area of the permit.

(f) Upon the agency's request, an applicant relying on a permit professional must participate in a meeting with the agency before submitting an application:

(1) during the preapplication meeting, the applicant must submit at least the following:

(i) project description, including, but not limited to, scope of work, primary emissions points, discharge outfalls, and water intake points;

(ii) location of the project, including county, municipality, and location on the site;

(iii) business schedule for project completion; and

(iv) other information requested by the agency at least two weeks prior to the scheduled meeting; and

(2) during the preapplication meeting, the agency shall provide for the applicant at least the following:

(i) an overview of the permit review program;

(ii) a determination of which specific application or applications will be necessary to complete the project;

(iii) a statement notifying the applicant if the specific permit being sought requires a mandatory public hearing or comment period;

(iv) a review of the timetable established in the permit review program for the specific permit being sought; and

(v) a determination of what information must be included in the application, including a description of any required modeling or testing.

(g) The applicant may select a permit professional to undertake the preparation of the permit application and draft permit.

(h) A permit application submitted by a permit professional shall be deemed complete unless the terms and conditions in the application submitted by the permit professional are clearly erroneous under statute or rule. The agency shall, within five business days of receipt of an application, notify the applicant and submitting permit professional that the application is complete or is denied, specifying the deficiencies of the application.

(i) Upon receipt of notice that the application is complete, the permit professional shall submit to the agency a timetable for submitting a draft permit. The permit professional shall submit a draft permit on or before the date provided in the timetable. Within 60 days after the close of the public comment period and public hearing, the commissioner shall notify the applicant whether the permit is approved.

(j) Nothing in this section shall be construed to modify:

(1) any requirement of law that is necessary to retain federal delegation to or assumption by the state; or

(2) the authority to implement a federal law or program.

(k) The permit application and draft permit shall identify or include as an appendix all studies and other sources of information used to substantiate the analysis contained in the permit application and draft permit. The commissioner shall request additional studies, if needed, and the project proposer shall submit all additional studies and information necessary for the commissioner to perform the commissioner's responsibility to review, modify, and determine the completeness of the application and approve the draft permit.

(l) If, by July 1 of an odd-numbered year, a biennial appropriation law has not been enacted to fund air, water, and land programs at the agency, existing permits shall not be terminated or suspended, provided the terms and conditions of the permit and local, state, and federal laws and rules are met, regardless of the state's capability to receive, review, or process fees, reports, or other filings.

Sec. 5. Minnesota Statutes 2010, section 116.07, subdivision 4a, is amended to read:

Subd. 4a. **Permits.** (a) The Pollution Control Agency may issue, continue in effect or deny permits, under such conditions as it may prescribe for the prevention of pollution, for the emission of air contaminants, or for the installation or operation of any emission facility, air contaminant treatment facility, treatment facility, potential air contaminant storage facility, or storage facility, or any part thereof, or for the sources or emissions of noise pollution.

The Pollution Control Agency may also issue, continue in effect or deny permits, under such conditions as it may prescribe for the prevention of pollution, for the storage, collection, transportation, processing, or disposal of waste, or for the installation or operation of any system or facility, or any part thereof, related to the storage, collection, transportation, processing, or disposal of waste.

The agency may not issue a permit to a facility without analyzing and considering the cumulative levels and effects of past and current environmental pollution from all sources on the environment and residents of the geographic area within which the facility's emissions are likely to be deposited, provided that the facility is located in a community in a city of the first class in Hennepin County that meets all of the following conditions:

(1) is within a half mile of a site designated by the federal government as an EPA superfund site due to residential arsenic contamination;

(2) a majority of the population are low-income persons of color and American Indians;

(3) a disproportionate percent of the children have childhood lead poisoning, asthma, or other environmentally related health problems;

(4) is located in a city that has experienced numerous air quality alert days of dangerous air quality for sensitive populations between February 2007 and February 2008; and

(5) is located near the junctions of several heavily trafficked state and county highways and two one-way streets which carry both truck and auto traffic.

The Pollution Control Agency may revoke or modify any permit issued under this subdivision and section 116.081 whenever it is necessary, in the opinion of the agency, to prevent or abate pollution.

(b) The Pollution Control Agency has the authority for approval over the siting, expansion, or operation of a solid waste facility with regard to environmental issues. However, the agency's issuance of a permit does not release the permittee from any liability, penalty, or duty imposed by any applicable county ordinances. Nothing in this chapter precludes, or shall be construed to preclude, a county from enforcing land use controls, regulations, and ordinances existing at the time of the permit application and adopted pursuant to sections 366.10 to 366.181, 394.21 to 394.37, or 462.351 to 462.365, with regard to the siting, expansion, or operation of a solid waste facility.

(c) Except as prohibited by federal law, a person may commence construction, reconstruction, replacement, or modification of any facility prior to the issuance of a construction permit by the agency.

Sec. 6. Minnesota Statutes 2010, section 116J.035, is amended by adding a subdivision to read:

**Subd. 8. Environmental permits coordinator.** (a) The commissioner is designated the environmental permits coordinator and shall coordinate the implementation and administration of state permits, including:

(1) establishing a mechanism in state government that will coordinate administrative decision-making procedures and related quasijudicial and judicial review pertaining to permits related to the state's air, land, and water resources;

(2) providing coordination and understanding between federal, state, and local governmental units in the administration of the various programs relating to air, water, and land resources;

(3) identifying all existing federal, state, and local permits and other approvals; compliance schedules; or other programs that pertain to the use of natural resources and protection of the environment; and

(4) recommending legislative or administrative modifications to existing permit programs to increase their efficiency and utility.

(b) A person proposing a project may apply to the environmental permits coordinator for assistance in obtaining necessary state permits and other approvals. Upon request, the environmental permits coordinator shall:

(1) provide a list of all federal, state, and local permits and other required approvals for the project;

(2) provide a plan that will coordinate federal, state, and local administrative decision-making practices, including monitoring, analysis and reporting, public comments and hearings, and issuances of permits and approvals;

(3) provide a timeline for the issuance of all federal, state, and local permits and other approvals required for the project;

(4) coordinate the execution of any memorandum of understanding between the person proposing a project and any federal, state, or local agency;

(5) coordinate all federal, state, or local public comment periods and hearings; and

(6) provide other assistance requested to facilitate final approval and issuance of all federal, state, and local permits and other approvals required for the project.

(c) As necessary, the environmental permits coordinator shall negotiate a schedule to assess the project proposer for reasonable costs that any state agency incurs in coordinating the implementation and administration of state permits, and the proposer shall pay the assessed costs to the environmental permits coordinator. Money received by the environmental permits coordinator must be credited to an account in the special revenue fund and is appropriated to the commissioner to cover the assessed costs incurred.

(d) The coordination of implementation and administration of state permits is not governmental action under section 116D.04.

(e) For the purposes of this subdivision:

(1) "agency" means:

(i) a state department, commission, board, or other agency of the state, however titled; or

(ii) a local governmental unit or instrumentality, only when that unit or instrumentality is acting within existing legal authority to grant or deny a permit that otherwise would be granted or denied by a state agency;

(2) "local governmental unit" means a county, city, town, or special district with legal authority to issue a permit;

(3) "permit" means a permit, certificate, certification, approval, compliance schedule, or other similar document pertaining to a regulatory or management program related to the protection, conservation, or use of or interference with the natural resources of land, air, or water that must be obtained from a state agency before constructing or operating a project in the state;

(4) "person" means an individual, an association or partnership, or a cooperative, municipal, public, or private corporation, including but not limited to a state agency and a county; and

(5) "project" means a new activity or an expansion of or addition to an existing activity, which is fixed in location and for which permits are required from an agency prior to construction or operation, including but not limited to industrial and commercial operations and developments.

## ARTICLE 2 ENVIRONMENTAL REVIEW

Section 1. Minnesota Statutes 2010, section 14.05, is amended by adding a subdivision to read:

Subd. 5a. **Review of environmental assessment worksheets and environmental impact statements.** By December 1, 2012, and every five years thereafter, the Environmental Quality Board, Pollution Control Agency, Department of Natural Resources, and Department of Transportation, after consultation with political subdivisions, shall submit to the governor and the chairs of the house of representatives and senate committees having jurisdiction over environment and natural resources a list of mandatory environmental assessment worksheet or mandatory environmental impact statement categories for which the agency or a political subdivision is designated as the responsible government unit, and for each worksheet or statement category, a document including:

(1) intended outcomes of each worksheet or statement within each category;

(2) the cost to state and local government and the private sector; and

(3) an explanation of what information provided on the mandatory worksheet or statement within each category is not included in or provided for in an existing permit or other federal, state, or local law.

Sec. 2. Minnesota Statutes 2010, section 41A.10, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For the purposes of this section and section 103F.518, the terms defined in this subdivision have the meanings given them.

(a) "Cellulosic biofuel" means transportation fuel derived from cellulosic materials.

(b) "Cellulosic material" means an agricultural or wood feedstock primarily comprised of cellulose, hemicellulose, or lignin or a combination of those ingredients grown on agricultural lands or harvested timber lands.

(c) "Agricultural land" means land used for horticultural, row, close grown, pasture, and hayland crops; growing nursery stocks; animal feedlots; farm yards; associated building sites; and public and private drainage systems and field roads located on any of that land.

(d) "Cellulosic biofuel facility" means a facility at which cellulosic biofuel is produced.

(e) "Perennial crops" means agriculturally produced plants that have a life cycle of at least three years at the location where the plants are being cultivated.

(f) "Perennial cropping system" means an agricultural production system that utilizes a perennial crop.

(g) "Native species" means a plant species which was present in a defined area of Minnesota prior to European settlement (circa 1850). A defined area may be an ecological classification province. Wild-type varieties therefore are regional or local ecotypes that have not undergone a selection process.

(h) "Diverse native prairie" means a prairie planted from a mix of local Minnesota native prairie species. A selection from all available native prairie species may be made so as to match species appropriate to local site conditions.

(i) "Commissioner" means the commissioner of agriculture.

Sec. 3. Minnesota Statutes 2011 Supplement, section 116D.04, subdivision 2a, is amended to read:

Subd. 2a. **When prepared.** Where there is potential for significant environmental effects resulting from any major governmental action, the action shall be preceded by a detailed environmental impact statement prepared by the responsible governmental unit. The environmental impact statement shall be an analytical rather than an encyclopedic document which describes the proposed action in detail, analyzes its significant environmental impacts, discusses appropriate alternatives to the proposed action and their impacts, and explores methods by which adverse environmental impacts of an action could be mitigated. The environmental impact statement shall also analyze those economic, employment and sociological effects that cannot be avoided should the action be implemented. To ensure its use in the decision-making process, the environmental impact statement shall be prepared as early as practical in the formulation of an action. ~~No mandatory environmental impact statement may be required for an ethanol plant, as defined in section 41A.09, subdivision 2a, paragraph (b), that produces less than 125,000,000 gallons of ethanol annually and is located outside of the seven county metropolitan area.~~

(a) The board shall by rule establish categories of actions for which environmental impact statements and for which environmental assessment worksheets shall be prepared as well as categories of actions for which no environmental review is required under this section. A mandatory environmental assessment worksheet shall not be

required for the expansion of an ethanol plant, as defined in section 41A.09, subdivision 2a, paragraph (b), or the conversion of an ethanol plant to a biobutanol facility or the expansion of a biobutanol facility as defined in section 41A.105, subdivision 1a, based on the capacity of the expanded or converted facility to produce alcohol fuel, but must be required if the ethanol plant meets or exceeds thresholds of other categories of actions for which environmental assessment worksheets must be prepared. The responsible governmental unit for an ethanol plant project for which an environmental assessment worksheet is prepared shall be the state agency with the greatest responsibility for supervising or approving the project as a whole. A mandatory environmental impact statement shall not be required for a facility or plant located outside the seven-county metropolitan area that produces less than 125,000,000 gallons of ethanol, biobutanol, or cellulosic biofuel annually, if the facility or plant is: an ethanol plant, as defined in section 41A.09, subdivision 2a, paragraph (b); a biobutanol facility, as defined in section 41A.105, subdivision 1a, clause (1); or a cellulosic biofuel facility as defined in section 41A.10, subdivision 1, paragraph (d).

(b) The responsible governmental unit shall promptly publish notice of the completion of an environmental assessment worksheet in a manner to be determined by the board and shall provide copies of the environmental assessment worksheet to the board and its member agencies. Comments on the need for an environmental impact statement may be submitted to the responsible governmental unit during a 30-day period following publication of the notice that an environmental assessment worksheet has been completed. The responsible governmental unit's decision on the need for an environmental impact statement shall be based on the environmental assessment worksheet and the comments received during the comment period, and shall be made within 15 days after the close of the comment period. The board's chair may extend the 15-day period by not more than 15 additional days upon the request of the responsible governmental unit.

(c) An environmental assessment worksheet shall also be prepared for a proposed action whenever material evidence accompanying a petition by not less than 100 individuals who reside or own property in the state, submitted before the proposed project has received final approval by the appropriate governmental units, demonstrates that, because of the nature or location of a proposed action, there may be potential for significant environmental effects. Petitions requesting the preparation of an environmental assessment worksheet shall be submitted to the board. The chair of the board shall determine the appropriate responsible governmental unit and forward the petition to it. A decision on the need for an environmental assessment worksheet shall be made by the responsible governmental unit within 15 days after the petition is received by the responsible governmental unit. The board's chair may extend the 15-day period by not more than 15 additional days upon request of the responsible governmental unit.

(d) Except in an environmentally sensitive location where Minnesota Rules, part 4410.4300, subpart 29, item B, applies, the proposed action is exempt from environmental review under this chapter and rules of the board, if:

(1) the proposed action is:

(i) an animal feedlot facility with a capacity of less than 1,000 animal units; or

(ii) an expansion of an existing animal feedlot facility with a total cumulative capacity of less than 1,000 animal units;

(2) the application for the animal feedlot facility includes a written commitment by the proposer to design, construct, and operate the facility in full compliance with Pollution Control Agency feedlot rules; and

(3) the county board holds a public meeting for citizen input at least ten business days prior to the Pollution Control Agency or county issuing a feedlot permit for the animal feedlot facility unless another public meeting for citizen input has been held with regard to the feedlot facility to be permitted. The exemption in this paragraph is in addition to other exemptions provided under other law and rules of the board.

(e) The board may, prior to final approval of a proposed project, require preparation of an environmental assessment worksheet by a responsible governmental unit selected by the board for any action where environmental review under this section has not been specifically provided for by rule or otherwise initiated.

(f) An early and open process shall be utilized to limit the scope of the environmental impact statement to a discussion of those impacts, which, because of the nature or location of the project, have the potential for significant environmental effects. The same process shall be utilized to determine the form, content and level of detail of the statement as well as the alternatives which are appropriate for consideration in the statement. In addition, the permits which will be required for the proposed action shall be identified during the scoping process. Further, the process shall identify those permits for which information will be developed concurrently with the environmental impact statement. The board shall provide in its rules for the expeditious completion of the scoping process. The determinations reached in the process shall be incorporated into the order requiring the preparation of an environmental impact statement.

(g) The responsible governmental unit shall, to the extent practicable, avoid duplication and ensure coordination between state and federal environmental review and between environmental review and environmental permitting. Whenever practical, information needed by a governmental unit for making final decisions on permits or other actions required for a proposed project shall be developed in conjunction with the preparation of an environmental impact statement.

(h) An environmental impact statement shall be prepared and its adequacy determined within 280 days after notice of its preparation unless the time is extended by consent of the parties or by the governor for good cause. The responsible governmental unit shall determine the adequacy of an environmental impact statement, unless within 60 days after notice is published that an environmental impact statement will be prepared, the board chooses to determine the adequacy of an environmental impact statement. If an environmental impact statement is found to be inadequate, the responsible governmental unit shall have 60 days to prepare an adequate environmental impact statement.

(i) The proposer of a specific action may include in the information submitted to the responsible governmental unit a preliminary draft environmental impact statement under this section on that action for review, modification, and determination of completeness and adequacy by the responsible governmental unit. A preliminary draft environmental impact statement prepared by the project proposer and submitted to the responsible governmental unit shall identify or include as an appendix all studies and other sources of information used to substantiate the analysis contained in the preliminary draft environmental impact statement. The responsible governmental unit shall require additional studies, if needed, and obtain from the project proposer all additional studies and information necessary for the responsible governmental unit to perform its responsibility to review, modify, and determine the completeness and adequacy of the environmental impact statement."

Delete the title and insert:

"A bill for an act relating to environment; providing for permitting efficiency; modifying environmental review requirements; appropriating money; amending Minnesota Statutes 2010, sections 14.05, by adding a subdivision; 41A.10, subdivision 1; 84.027, by adding a subdivision; 115.03, by adding a subdivision; 116.07, subdivision 4a; 116J.035, by adding a subdivision; Minnesota Statutes 2011 Supplement, sections 84.027, subdivision 14a; 116.03, subdivision 2b; 116D.04, subdivision 2a."

The motion prevailed and the amendment was adopted.

Knuth offered an amendment to S. F. No. 1567, the fourth engrossment, as amended.

#### POINT OF ORDER

Buesgens raised a point of order pursuant to rule 3.21 that the Knuth amendment was not in order. Speaker pro tempore Lanning ruled the point of order well taken and the Knuth amendment out of order.

Morrow appealed the decision of Speaker pro tempore Lanning.

A roll call was requested and properly seconded.

The vote was taken on the question "Shall the decision of the Speaker pro tempore Lanning stand as the judgement of the House?" and the roll was called. There were 71 yeas and 60 nays as follows:

Those who voted in the affirmative were:

|              |            |            |             |              |              |
|--------------|------------|------------|-------------|--------------|--------------|
| Anderson, B. | Daudt      | Gruenhagen | Kriesel     | Murdock      | Shimanski    |
| Anderson, D. | Davids     | Gunther    | Lanning     | Murray       | Smith        |
| Anderson, P. | Dean       | Hackbarth  | Leidiger    | Myhra        | Stensrud     |
| Anderson, S. | Dettmer    | Hamilton   | LeMieur     | Nornes       | Swedzinski   |
| Banaian      | Doepke     | Hancock    | Lohmer      | O'Driscoll   | Torkelson    |
| Barrett      | Downey     | Holberg    | Loon        | Peppin       | Urdahl       |
| Beard        | Drazkowski | Hoppe      | Mack        | Petersen, B. | Vogel        |
| Benson, M.   | Erickson   | Howes      | Mazorol     | Quam         | Wardlow      |
| Bills        | Fabian     | Kelly      | McDonald    | Runbeck      | Westrom      |
| Buesgens     | Franson    | Kieffer    | McElpatrick | Sanders      | Woodard      |
| Cornish      | Garofalo   | Kiel       | McFarlane   | Schomacker   | Spk. Zellers |
| Crawford     | Gottwalt   | Kiffmeyer  | McNamara    | Scott        |              |

Those who voted in the negative were:

|            |          |           |            |              |          |
|------------|----------|-----------|------------|--------------|----------|
| Allen      | Dittrich | Hornstein | Lenczewski | Morrow       | Poppe    |
| Anzelc     | Eken     | Hortman   | Lesch      | Mullery      | Rukavina |
| Atkins     | Falk     | Hosch     | Liebling   | Murphy, E.   | Scalze   |
| Benson, J. | Fritz    | Huntley   | Lillie     | Murphy, M.   | Simon    |
| Brynaert   | Gauthier | Johnson   | Loeffler   | Nelson       | Slawik   |
| Carlson    | Greiling | Kahn      | Mahoney    | Norton       | Slocum   |
| Champion   | Hansen   | Kath      | Mariani    | Paymar       | Thissen  |
| Clark      | Hausman  | Knuth     | Marquart   | Pelowski     | Wagenius |
| Davnie     | Hilstrom | Koenen    | Melin      | Persell      | Ward     |
| Dill       | Hilty    | Laine     | Moran      | Peterson, S. | Winkler  |

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

Eken, Kriesel and Scalze were excused for the remainder of today's session.

Anzelc, Rukavina, Melin and Dill moved to amend S. F. No. 1567, the fourth engrossment, as amended, as follows:

Page 12, after line 36, insert:

"Sec. 4. **PILOT PROGRAM FOR ALTERNATIVE FORM OF ENVIRONMENTAL REVIEW.**

(a) The commissioner of the Pollution Control Agency and the commissioner of natural resources may jointly conduct a pilot program for an alternative form of environmental review as specified in this section. This pilot program is in addition to the alternate forms of environmental review that are authorized under Minnesota Statutes, section 116D.04, subdivision 4a. Minnesota Rules, part 4410.3600, does not apply to the pilot program authorized in this section.

(b) The commissioners may select up to three projects to be processed under the pilot program. The environmental review work for each project must commence before January 1, 2014, to remain eligible for proceeding under this program.

(c) The pilot program procedures are as follows:

(1) an environmental assessment worksheet is not required;

(2) a scoping document must be prepared that identifies the issues to be analyzed, the alternatives to be considered, and the studies to be undertaken. The scoping document results must be published at the same time as the notice of preparation of the environmental impact statement;

(3) any person may submit written comments within 20 days of publication of the notice for preparation of the environmental impact statement. The responsible government unit must consider modifying the scope of the project based on the comments;

(4) the environmental impact statement must be an analytical, rather than an encyclopedic, document that describes the proposed action in detail, analyzes the action's significant environmental impacts, discusses appropriate alternatives to the proposed action and the alternatives' impacts, and explores methods by which adverse environmental impacts of an action could be mitigated. The environmental impact statement must also analyze those economic, employment, and sociological effects that cannot be avoided should the action be implemented;

(5) if an impact analysis is needed for permitting, the impact analysis may be summarized for inclusion in the draft environmental impact statement rather than the full modeling and analysis being contained within the draft environmental impact statement. An impact analysis must identify the regulatory requirements, types of impact, and mitigation methods; and

(6) the responsible government unit must follow the procedural notice requirements for a draft environmental impact statement, final environmental impact statement, and notice of determination of adequacy for an environmental impact statement.

(d) A project proposed to be processed under the pilot program must meet all of the following criteria:

(1) the project meets or exceeds the threshold of a project requiring a mandatory environmental impact statement;

(2) if a combustion source is part of the project, natural gas is the only fuel;

(3) the project does not have any known projected drawdown effect on private wells;

(4) Class I air modeling demonstrates that the project will not cause adverse impacts; and

(5) the project is subject to Code of Federal Regulations, title 40, section 52.21, and the reviews required for a PSD (prevention of significant deterioration) permit, including control technology, ambient air, and Class I area impact analysis.

(e) A project may not be processed under the pilot program if the project:

(1) requires a federal environmental impact statement;

(2) is for mining metallic minerals by open pit or underground methods or is a new facility for processing metallic minerals mined by open pit or underground methods;

(3) is for mining nonferrous metallic minerals or is a new facility for processing nonferrous metallic minerals;

(4) is located in a karst area; or

(5) would result in a direct discharge of process water to surface water.

(f) For the selected projects, the responsible government unit must prepare the environmental impact statement according to this section. Notwithstanding Minnesota Statutes, section 116D.04, subdivision 2a, paragraph (i), the proposers of the specific project selected for the pilot program may not prepare or submit a preliminary draft environmental impact statement.

(g) The proposers are subject to the assessment of reasonable costs as provided in Minnesota Statutes, section 116D.045.

(h) By January 15, 2016, the commissioners shall report to the Environmental Quality Board on the outcomes of the pilot program and include any recommendations for statute or rule changes.

**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

The motion prevailed and the amendment was adopted.

Dill moved to amend S. F. No. 1567, the fourth engrossment, as amended, as follows:

Page 4, line 5, delete "and"

Page 4, line 6, delete the period and insert "": and"

Page 4, after line 6, insert:

"(3) abides by the duty of candor applicable to employees of the Pollution Control Agency under agency rules and complies with all applicable requirements for engineers under chapter 326."

Page 6, line 30, delete everything after "(a)" and insert "The commissioner of employment and economic development shall, through the multiagency collaboration called "Minnesota Business First Stop" ensure the coordination, implementation, and administration of state and federal permits, including:"

Page 6, delete lines 31 and 32

The motion prevailed and the amendment was adopted.

McNamara moved to amend S. F. No. 1567, the fourth engrossment, as amended, as follows:

Page 4, line 30, delete everything after "(h)"

Page 4, delete line 31

Page 4, line 32, delete everything before "The"

ReNUMBER the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Hansen moved to amend S. F. No. 1567, the fourth engrossment, as amended, as follows:

Page 2, line 34, after "years" insert "and are valid unless the animal feedlot is not in compliance with the terms of the permit"

The motion prevailed and the amendment was adopted.

Dauids was excused for the remainder of today's session.

Mullery, Loeffler, Champion, Kahn and Clark moved to amend S. F. No. 1567, the fourth engrossment, as amended, as follows:

Page 8, after line 17, insert:

"Sec. 7. Minnesota Statutes 2010, section 586.01, is amended to read:

**586.01 ISSUANCE OF WRIT, JUDICIAL DISCRETION NOT CONTROLLED.**

The writ of mandamus may be issued to any inferior tribunal, corporation, board, or person to compel the performance of an act which the law specially enjoins as a duty resulting from an office, trust, or station. It may require an inferior tribunal to exercise its judgment or proceed to the discharge of any of its functions, but it cannot control judicial discretion. A peremptory writ may not be issued to the Department of Natural Resources or its commissioner or the Pollution Control Agency or its commissioner, or a city or county.

**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 Mullery et al amendment and the roll was called. There were 50 yeas and 77 nays as follows:

Those who voted in the affirmative were:

|            |          |           |            |              |          |
|------------|----------|-----------|------------|--------------|----------|
| Allen      | Dill     | Hilty     | Lenczewski | Mullery      | Slawik   |
| Anzelc     | Dittrich | Hornstein | Lesch      | Murphy, E.   | Slocum   |
| Atkins     | Falk     | Hosch     | Liebling   | Murphy, M.   | Thissen  |
| Benson, J. | Fritz    | Huntley   | Lillie     | Nelson       | Wagenius |
| Brynaert   | Gauthier | Johnson   | Loeffler   | Paymar       | Winkler  |
| Carlson    | Greiling | Kahn      | Mahoney    | Persell      |          |
| Champion   | Hansen   | Knuth     | Mariani    | Peterson, S. |          |
| Clark      | Hausman  | Koenen    | Moran      | Rukavina     |          |
| Davnie     | Hilstrom | Laine     | Morrow     | Simon        |          |

Those who voted in the negative were:

|              |            |           |             |              |              |
|--------------|------------|-----------|-------------|--------------|--------------|
| Abeler       | Daudt      | Hackbarth | LeMieur     | Myhra        | Shimanski    |
| Anderson, B. | Dean       | Hamilton  | Lohmer      | Nornes       | Smith        |
| Anderson, D. | Dettmer    | Hancock   | Loon        | Norton       | Stensrud     |
| Anderson, P. | Doepke     | Holberg   | Mack        | O'Driscoll   | Swedzinski   |
| Anderson, S. | Downey     | Hoppe     | Marquart    | Pelowski     | Torkelson    |
| Banaian      | Drazkowski | Howes     | Mazorol     | Peppin       | Urdahl       |
| Barrett      | Erickson   | Kath      | McDonald    | Petersen, B. | Vogel        |
| Beard        | Fabian     | Kelly     | McElfatrick | Poppe        | Ward         |
| Benson, M.   | Franson    | Kieffer   | McFarlane   | Quam         | Wardlow      |
| Bills        | Garofalo   | Kiel      | McNamara    | Runbeck      | Westrom      |
| Buesgens     | Gottwalt   | Kiffmeyer | Melin       | Sanders      | Woodard      |
| Cornish      | Gruenhagen | Lanning   | Murdock     | Schomacker   | Spk. Zellers |
| Crawford     | Gunther    | Leidiger  | Murray      | Scott        |              |

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

S. F. No. 1567, as amended, was read for the third time.

#### MOTION FOR RECONSIDERATION

Hansen moved that the action whereby S. F. No. 1567, as amended, was given its third reading be now reconsidered. The motion prevailed.

S. F. No. 1567, as amended, was again reported to the House.

Hansen moved to amend S. F. No. 1567, the fourth engrossment, as amended, as follows:

Page 4, after line 6, insert:

"This paragraph expires August 1, 2015."

Page 4, after line 27, insert:

"This paragraph expires August 1, 2015."

Page 4, line 29, after the period, insert "This paragraph expires August 1, 2015."

Page 4, line 35, after the period, insert "This paragraph expires August 1, 2015."

Page 5, line 5, after the period, insert "This paragraph expires August 1, 2015."

Page 5, after line 9, insert:

"This paragraph expires August 1, 2015."

Page 5, line 15, after the period, insert "This paragraph expires August 1, 2015."

A roll call was requested and properly seconded.

The question was taken on the Hansen amendment and the roll was called. There were 53 yeas and 74 nays as follows:

Those who voted in the affirmative were:

|            |          |            |          |              |          |
|------------|----------|------------|----------|--------------|----------|
| Abeler     | Dittrich | Hornstein  | Lesch    | Mullery      | Poppe    |
| Allen      | Falk     | Hortman    | Liebling | Murphy, E.   | Simon    |
| Atkins     | Fritz    | Hosch      | Lillie   | Murphy, M.   | Slawik   |
| Benson, J. | Gauthier | Huntley    | Loeffler | Nelson       | Slocum   |
| Brynaert   | Greiling | Johnson    | Mahoney  | Norton       | Thissen  |
| Carlson    | Hansen   | Kahn       | Mariani  | Paymar       | Wagenius |
| Champion   | Hausman  | Knuth      | Marquart | Pelowski     | Ward     |
| Clark      | Hilstrom | Laine      | Melin    | Persell      | Winkler  |
| Davnie     | Hilty    | Lenczewski | Moran    | Peterson, S. |          |

Those who voted in the negative were:

|              |            |            |            |           |           |
|--------------|------------|------------|------------|-----------|-----------|
| Anderson, B. | Benson, M. | Dill       | Gottwalt   | Howes     | Leidiger  |
| Anderson, D. | Bills      | Doepke     | Gruenhagen | Kath      | LeMieur   |
| Anderson, P. | Buesgens   | Downey     | Gunther    | Kelly     | Lohmer    |
| Anderson, S. | Cornish    | Drazkowski | Hackbarth  | Kieffer   | Loon      |
| Anzelc       | Crawford   | Erickson   | Hamilton   | Kiel      | Mack      |
| Banaian      | Daudt      | Fabian     | Hancock    | Kiffmeyer | Mazorol   |
| Barrett      | Dean       | Franson    | Holberg    | Koenen    | McDonald  |
| Beard        | Dettmer    | Garofalo   | Hoppe      | Lanning   | McElfrick |

|           |              |            |            |           |              |
|-----------|--------------|------------|------------|-----------|--------------|
| McFarlane | Myhra        | Quam       | Scott      | Torkelson | Spk. Zellers |
| McNamara  | Nornes       | Rukavina   | Shimanski  | Urdahl    |              |
| Morrow    | O'Driscoll   | Runbeck    | Smith      | Vogel     |              |
| Murdock   | Peppin       | Sanders    | Stensrud   | Westrom   |              |
| Murray    | Petersen, B. | Schomacker | Swedzinski | Woodard   |              |

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

Falk moved to amend S. F. No. 1567, the fourth engrossment, as amended, as follows:

Page 10, line 25, before "facility" insert "farmer owned"

Page 10, line 27, before "facility" insert "farmer owned"

A roll call was requested and properly seconded.

The question was taken on the Falk amendment and the roll was called. There were 46 yeas and 81 nays as follows:

Those who voted in the affirmative were:

|            |          |           |          |              |          |
|------------|----------|-----------|----------|--------------|----------|
| Abeler     | Clark    | Hornstein | Liebling | Murphy, E.   | Slawik   |
| Allen      | Davnie   | Hortman   | Lillie   | Murphy, M.   | Slocum   |
| Anzelc     | Falk     | Huntley   | Loeffler | Nelson       | Thissen  |
| Atkins     | Fritz    | Johnson   | Mahoney  | Paymar       | Wagenius |
| Benson, J. | Gauthier | Kahn      | Mariani  | Persell      | Ward     |
| Brynaert   | Greiling | Knuth     | Melin    | Peterson, S. | Winkler  |
| Carlson    | Hausman  | Laine     | Moran    | Rukavina     |          |
| Champion   | Hilty    | Lesch     | Mullery  | Simon        |          |

Those who voted in the negative were:

|              |            |           |            |              |              |
|--------------|------------|-----------|------------|--------------|--------------|
| Anderson, B. | Dettmer    | Hamilton  | Leidiger   | Murray       | Shimanski    |
| Anderson, D. | Dill       | Hancock   | LeMieur    | Myhra        | Smith        |
| Anderson, P. | Dittrich   | Hansen    | Lenczewski | Nornes       | Stensrud     |
| Anderson, S. | Doepke     | Holberg   | Lohmer     | Norton       | Swedzinski   |
| Banaian      | Downey     | Hoppe     | Loon       | O'Driscoll   | Torkelson    |
| Barrett      | Drazkowski | Hosch     | Mack       | Pelowski     | Urdahl       |
| Beard        | Erickson   | Howes     | Marquart   | Peppin       | Vogel        |
| Benson, M.   | Fabian     | Kath      | Mazorol    | Petersen, B. | Wardlow      |
| Bills        | Franson    | Kelly     | McDonald   | Poppe        | Westrom      |
| Buesgens     | Garofalo   | Kieffer   | McElfrick  | Quam         | Woodard      |
| Cornish      | Gottwalt   | Kiel      | McFarlane  | Runbeck      | Spk. Zellers |
| Crawford     | Gruenhagen | Kiffmeyer | McNamara   | Sanders      |              |
| Daudt        | Gunther    | Koenen    | Morrow     | Schomacker   |              |
| Dean         | Hackbarth  | Lanning   | Murdock    | Scott        |              |

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

S. F. No. 1567, A bill for an act relating to environment; providing for permitting efficiency; modifying environmental review requirements; modifying requirements for water supply plans; modifying terms for certain permits; appropriating money; amending Minnesota Statutes 2010, sections 41A.10, subdivision 1; 84.027, by adding a subdivision; 103G.291, subdivisions 3, 4; 115.03, by adding a subdivision; 116.07, subdivision 4a, by adding a subdivision; 116D.04, by adding a subdivision; 116J.03, by adding subdivisions; 116J.035, by adding a subdivision; Minnesota Statutes 2011 Supplement, sections 84.027, subdivision 14a; 116.03, subdivision 2b; 116D.04, subdivision 2a; repealing Minnesota Statutes 2010, section 103G.291, 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 79 yeas and 49 nays as follows:

Those who voted in the affirmative were:

|              |            |           |             |              |              |
|--------------|------------|-----------|-------------|--------------|--------------|
| Anderson, B. | Dean       | Hamilton  | Lohmer      | Nornes       | Swedzinski   |
| Anderson, D. | Dettmer    | Hancock   | Loon        | O'Driscoll   | Torkelson    |
| Anderson, P. | Dill       | Holberg   | Mack        | Pelowski     | Urdahl       |
| Anderson, S. | Doepke     | Hoppe     | Marquart    | Peppin       | Vogel        |
| Anzelc       | Downey     | Howes     | Mazorol     | Petersen, B. | Ward         |
| Banaian      | Drazkowski | Kath      | McDonald    | Quam         | Wardlow      |
| Barrett      | Erickson   | Kelly     | McElfatrick | Rukavina     | Westrom      |
| Beard        | Fabian     | Kieffer   | McFarlane   | Runbeck      | Woodard      |
| Benson, M.   | Franson    | Kiel      | McNamara    | Sanders      | Spk. Zellers |
| Bills        | Garofalo   | Kiffmeyer | Melin       | Schomacker   |              |
| Buesgens     | Gottwalt   | Koenen    | Morrow      | Scott        |              |
| Cornish      | Gruenhagen | Lanning   | Murdock     | Shimanski    |              |
| Crawford     | Gunther    | Leidiger  | Murray      | Smith        |              |
| Daudt        | Hackbarth  | LeMieur   | Myhra       | Stensrud     |              |

Those who voted in the negative were:

|            |          |            |            |              |          |
|------------|----------|------------|------------|--------------|----------|
| Abeler     | Dittrich | Hornstein  | Lesch      | Murphy, M.   | Slocum   |
| Allen      | Falk     | Hortman    | Liebling   | Nelson       | Thissen  |
| Atkins     | Fritz    | Hosch      | Lillie     | Norton       | Wagenius |
| Benson, J. | Gauthier | Huntley    | Loeffler   | Paymar       | Winkler  |
| Brynaert   | Greiling | Johnson    | Mahoney    | Persell      |          |
| Carlson    | Hansen   | Kahn       | Mariani    | Peterson, S. |          |
| Champion   | Hausman  | Knuth      | Moran      | Poppe        |          |
| Clark      | Hilstrom | Laine      | Mullery    | Simon        |          |
| Davnie     | Hilty    | Lenczewski | Murphy, E. | Slawik       |          |

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

H. F. No. 2333, A bill for an act relating to public safety; specifically including theft of motor fuel in the theft crime; creating a permissive inference regarding theft of motor fuel; modifying the drive-off gas civil liability law; amending Minnesota Statutes 2010, sections 171.175; 332.32; 604.15, subdivision 3, by adding a subdivision; 609.52, 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       | Davnie     | Hansen    | Leidiger    | Murdock      | Shimanski    |
| Allen        | Dean       | Hausman   | LeMieur     | Murphy, E.   | Simon        |
| Anderson, B. | Dettmer    | Hilstrom  | Lenczewski  | Murphy, M.   | Slawik       |
| Anderson, D. | Dill       | Hilty     | Lesch       | Murray       | Slocum       |
| Anderson, P. | Dittrich   | Holberg   | Liebling    | Myhra        | Smith        |
| Anderson, S. | Doepke     | Hoppe     | Lillie      | Nelson       | Stensrud     |
| Anzelc       | Downey     | Hornstein | Loeffler    | Nornes       | Swedzinski   |
| Atkins       | Drazkowski | Hortman   | Lohmer      | Norton       | Thissen      |
| Banaian      | Erickson   | Hosch     | Loon        | O'Driscoll   | Torkelson    |
| Barrett      | Fabian     | Howes     | Mack        | Paymar       | Urdahl       |
| Beard        | Falk       | Huntley   | Mahoney     | Pelowski     | Vogel        |
| Benson, J.   | Franson    | Johnson   | Mariani     | Peppin       | Wagenius     |
| Benson, M.   | Fritz      | Kahn      | Marquart    | Persell      | Ward         |
| Bills        | Garofalo   | Kath      | Mazorol     | Petersen, B. | Wardlow      |
| Brynaert     | Gauthier   | Kelly     | McDonald    | Peterson, S. | Westrom      |
| Buesgens     | Gottwalt   | Kieffer   | McElpatrick | Poppe        | Winkler      |
| Carlson      | Greiling   | Kiel      | McFarlane   | Quam         | Woodard      |
| Champion     | Gruenhagen | Kiffmeyer | McNamara    | Rukavina     | Spk. Zellers |
| Clark        | Gunther    | Knuth     | Melin       | Runbeck      |              |
| Cornish      | Hackbarth  | Koenen    | Moran       | Sanders      |              |
| Crawford     | Hamilton   | Laine     | Morrow      | Schomacker   |              |
| Daudt        | Hancock    | Lanning   | Mullery     | Scott        |              |

The bill was passed and its title agreed to.

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

Dean moved that the House recess subject to the call of the Chair.

#### MOTION TO ADJOURN

Thissen moved that the House adjourn.

A roll call was requested and properly seconded.

The question was taken on the Thissen motion and the roll was called. There were 58 yeas and 70 nays as follows:

Those who voted in the affirmative were:

|            |          |          |          |           |         |
|------------|----------|----------|----------|-----------|---------|
| Allen      | Brynaert | Davnie   | Fritz    | Hausman   | Hortman |
| Anzelc     | Carlson  | Dill     | Gauthier | Hilstrom  | Hosch   |
| Atkins     | Champion | Dittrich | Greiling | Hilty     | Huntley |
| Benson, J. | Clark    | Falk     | Hansen   | Hornstein | Johnson |

|            |          |            |            |              |          |
|------------|----------|------------|------------|--------------|----------|
| Kahn       | Lesch    | Marquart   | Murphy, M. | Peterson, S. | Thissen  |
| Kath       | Liebling | Melin      | Nelson     | Poppe        | Wagenius |
| Knuth      | Lillie   | Moran      | Norton     | Rukavina     | Ward     |
| Koenen     | Loeffler | Morrow     | Paymar     | Simon        | Winkler  |
| Laine      | Mahoney  | Mullery    | Pelowski   | Slawik       |          |
| Lenczewski | Mariani  | Murphy, E. | Persell    | Slocum       |          |

Those who voted in the negative were:

|              |            |            |             |              |              |
|--------------|------------|------------|-------------|--------------|--------------|
| Abeler       | Crawford   | Gruenhagen | Lanning     | Murray       | Smith        |
| Anderson, B. | Daudt      | Gunther    | Leidiger    | Myhra        | Stensrud     |
| Anderson, D. | Dean       | Hackbarth  | LeMieur     | Nornes       | Swedzinski   |
| Anderson, P. | Dettmer    | Hamilton   | Lohmer      | O'Driscoll   | Torkelson    |
| Anderson, S. | Doepke     | Hancock    | Loon        | Peppin       | Urdahl       |
| Banaian      | Downey     | Holberg    | Mack        | Petersen, B. | Vogel        |
| Barrett      | Drazkowski | Hoppe      | Mazorol     | Quam         | Wardlow      |
| Beard        | Erickson   | Howes      | McDonald    | Runbeck      | Westrom      |
| Benson, M.   | Fabian     | Kelly      | McElfatrick | Sanders      | Woodard      |
| Bills        | Franson    | Kieffer    | McFarlane   | Schomacker   | Spk. Zellers |
| Buesgens     | Garofalo   | Kiel       | McNamara    | Scott        |              |
| Cornish      | Gottwalt   | Kiffmeyer  | Murdock     | Shimanski    |              |

The motion did not prevail.

The question recurred on the Dean motion that the House recess subject to the call of the Chair. The motion prevailed.

#### RECESS

#### RECONVENED

The House reconvened and was called to order by the Speaker.

Atkins and Hornstein were excused for the remainder of today's session.

#### MOTIONS AND RESOLUTIONS

Smith moved that the name of Mariani be added as an author on H. F. No. 876. The motion prevailed.

Hortman moved that the name of Paymar be added as an author on H. F. No. 1429. The motion prevailed.

Scott moved that the name of McElfatrick be added as an author on H. F. No. 1466. The motion prevailed.

McFarlane moved that her name be stricken as an author on H. F. No. 1666. The motion prevailed.

Winkler moved that the name of Falk be added as an author on H. F. No. 2480. The motion prevailed.

Kiffmeyer moved that the name of Abeler be added as an author on H. F. No. 2555. The motion prevailed.

Howes moved that the name of Ward be added as an author on H. F. No. 2676. The motion prevailed.

Mariani moved that the name of Greiling be added as an author on H. F. No. 2840. The motion prevailed.

Doepke moved that the name of Loon be added as an author on H. F. No. 2878. The motion prevailed.

Hosch moved that the names of Slawik and Slocum be added as authors on H. F. No. 2954. The motion prevailed.

Shimanski moved that H. F. No. 2517 be recalled from the Committee on Judiciary Policy and Finance and be re-referred to the Committee on Ways and Means. The motion prevailed.

#### PROTEST AND DISSENT

Under Article IV, Section 11 of the Minnesota Constitution, we, the undersigned, want to enter into the Journal of the Minnesota House of Representatives a protest and dissent against Representative Bud Nornes. On Thursday, March 22, 2012, Representative Bud Nornes, while chairing the Higher Education Finance Committee, repeatedly ruled out of order motions by members to appeal the ruling of the chair and go to a roll call vote. This is in violation of the custom and usage of the Minnesota House of Representatives and brings the House of Representatives into disrepute. Such conduct is hereby condemned.

Signed:

GENE PELOWSKI, JR.  
TOM RUKAVINA  
JOE ATKINS  
TERRY MORROW  
KIM NORTON  
JEANNE POPPE

#### ADJOURNMENT

Dean moved that when the House adjourns today it adjourn until 3:00 p.m., Monday, March 26, 2012. The motion prevailed.

Dean moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 3:00 p.m., Monday, March 26, 2012.

ALBIN A. MATHIOWETZ, Chief Clerk, House of Representatives

