

STATE OF MINNESOTA

EIGHTY-FIFTH SESSION — 2008

 ONE HUNDRED FOURTEENTH DAY

SAINT PAUL, MINNESOTA, MONDAY, MAY 12, 2008

The House of Representatives convened at 10:00 a.m. and was called to order by Kathy Tingelstad, Speaker pro tempore.

The colors were presented by officers from the Minnesota State Patrol in recognition of Police Week beginning on May 12, 2008 and Peace Officer's Memorial Day on May 15, 2008.

Prayer was offered by the Reverend Alan Bray, Pastor at First Lutheran Church, St. Peter, Minnesota.

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

The roll was called and the following members were present:

Abeler	Dettmer	Hausman	Lenczewski	Norton	Simpson
Anderson, B.	Dill	Haws	Lesch	Olin	Slawik
Anderson, S.	Dittrich	Heidgerken	Liebling	Olson	Slocum
Anzelc	Dominguez	Hilstrom	Lieder	Otremba	Smith
Atkins	Doty	Hilty	Lillie	Ozment	Solberg
Beard	Drazkowski	Holberg	Loeffler	Paymar	Swails
Benson	Eastlund	Hornstein	Madore	Pelowski	Thao
Berns	Eken	Hortman	Magnus	Peppin	Thissen
Bigham	Emmer	Hosch	Mahoney	Peterson, A.	Tillberry
Bly	Erhardt	Howes	Mariani	Peterson, N.	Tingelstad
Brod	Erickson	Huntley	Marquart	Peterson, S.	Tschumper
Brown	Faust	Jaros	Masin	Poppe	Urdahl
Brynaert	Finstad	Johnson	McFarlane	Rukavina	Wagenius
Buesgens	Fritz	Juhnke	McNamara	Ruth	Walker
Bunn	Gardner	Kahn	Moe	Ruud	Ward
Carlson	Garofalo	Kalin	Morgan	Sailer	Wardlow
Clark	Gottwalt	Knuth	Morrow	Scalze	Welti
Cornish	Greiling	Koenen	Mullery	Seifert	Westrom
Davnie	Gunther	Kohls	Murphy, E.	Sertich	Winkler
Dean	Hackbarth	Kranz	Murphy, M.	Severson	Wollschlager
DeLaForest	Hamilton	Laine	Nelson	Shimanski	Zellers
Demmer	Hansen	Lanning	Nornes	Simon	Spk. Kelliher

A quorum was present.

Paulsen was excused until 1:55 p.m. Hoppe was excused until 2:50 p.m.

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

ANNOUNCEMENT BY THE SPEAKER

The Speaker announced the following change in membership of the Conference Committee on H. F. No. 6:

Delete the name of Davnie and add the name of Mariani.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House Files were introduced:

Otremba introduced:

H. F. No. 4239, A bill for an act relating to agriculture; changing the incidence of a dog food fee; amending Minnesota Statutes 2006, sections 25.33, by adding a subdivision; 25.39, subdivision 1.

The bill was read for the first time and referred to the Committee on Agriculture, Rural Economies and Veterans Affairs.

Berns, Morrow, Cornish and Paymar introduced:

H. F. No. 4240, A bill for an act relating to public safety; establishing crime of disarming a peace officer; providing criminal penalties; amending Minnesota Statutes 2006, section 609.50, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 609.

The bill was read for the first time and referred to the Committee on Public Safety and Civil Justice.

Huntley introduced:

H. F. No. 4241, A bill for an act relating to health care; proposing an amendment to the Minnesota Constitution, article XI; dedicating the proceeds of the health care provider tax to MinnesotaCare and health care access.

The bill was read for the first time and referred to the Committee on Rules and Legislative Administration.

Sertich moved 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 Speaker pro tempore Pelowski.

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Madam Speaker:

I hereby announce that the Senate accedes to the request of the House for the appointment of a Conference Committee on the amendments adopted by the Senate to the following House File:

H. F. No. 6, A bill for an act relating to education; providing for early childhood, family, adult, and prekindergarten through grade 12 education including general education, education excellence, special programs, facilities and technology, nutrition and accounting, libraries, state agencies, forecast adjustments, technical and conforming amendments, pupil transportation standards, and early childhood and adult programs; providing for task force and advisory groups; requiring school districts to give employees who are veterans the option to take personal leave on Veteran's Day and encouraging private employers to give employees who are veterans a day off with pay on Veteran's Day; requiring reports; authorizing rulemaking; funding parenting time centers; funding lead hazard reduction; appropriating money; amending Minnesota Statutes 2006, sections 13.32, by adding a subdivision; 16A.152, subdivision 2; 119A.50, by adding a subdivision; 119A.52; 119A.535; 120A.22, subdivision 7; 120B.021, subdivision 1; 120B.023, subdivision 2; 120B.024; 120B.11, subdivision 5; 120B.132; 120B.15; 120B.30; 120B.31, subdivision 3; 120B.36, subdivision 1; 121A.17, subdivision 5; 121A.22, subdivisions 1, 3, 4; 122A.16; 122A.18, by adding a subdivision; 122A.20, subdivision 1; 122A.414, subdivisions 1, 2; 122A.415, subdivision 1; 122A.60, subdivision 3; 122A.61, subdivision 1; 122A.628, subdivision 2; 122A.72, subdivision 5; 123A.73, subdivision 8; 123B.02, by adding a subdivision; 123B.10, subdivision 1, by adding a subdivision; 123B.143, subdivision 1; 123B.36, subdivision 1; 123B.37, subdivision 1; 123B.49, subdivision 4; 123B.53, subdivisions 1, 4, 5; 123B.54; 123B.57, subdivision 3; 123B.63, subdivision 3; 123B.77, subdivision 4; 123B.79, subdivisions 6, 8, by adding a subdivision; 123B.81, subdivisions 2, 4, 7; 123B.83, subdivision 2; 123B.88, subdivision 12; 123B.90, subdivision 2; 123B.92, subdivisions 1, 3, 5; 124D.095, subdivisions 2, 3, 4, 7; 124D.10, subdivisions 4, 8, 23a, 24; 124D.11, subdivision 1; 124D.111, subdivision 1; 124D.128, subdivisions 1, 2, 3; 124D.13, subdivisions 1, 2, 11, by adding a subdivision; 124D.135, subdivisions 1, 3, 5; 124D.16, subdivision 2; 124D.175; 124D.34, subdivision 7; 124D.4531; 124D.454, subdivisions 2, 3; 124D.531, subdivisions 1, 4; 124D.55; 124D.56, subdivisions 1, 2, 3; 124D.59, subdivision 2; 124D.65, subdivisions 5, 11; 124D.84, subdivision 1; 125A.11, subdivision 1; 125A.13; 125A.14; 125A.39; 125A.42; 125A.44; 125A.45; 125A.63, by adding a subdivision; 125A.75, subdivisions 1, 4; 125A.76, subdivisions 1, 2, 4, 5, by adding a subdivision; 125A.79, subdivisions 1, 5, 6, 8; 125B.15; 126C.01, subdivision 9, by adding subdivisions; 126C.05, subdivisions 1, 8, 15; 126C.10, subdivisions 1, 2, 2a, 2b, 4, 13a, 18, 24, 34, by adding a subdivision; 126C.126; 126C.13, subdivision 4; 126C.15, subdivision 2; 126C.17, subdivisions 6, 9; 126C.21, subdivisions 3, 5; 126C.41, by adding a subdivision; 126C.44; 126C.48, subdivisions 2, 7; 127A.441; 127A.47, subdivisions 7, 8; 127A.48, by adding a subdivision; 127A.49, subdivisions 2, 3; 128D.11, subdivision 3; 134.31, by adding a subdivision; 134.34, subdivision 4; 134.355, subdivision 9; 169.01, subdivision 6, by adding a subdivision; 169.443, by adding a subdivision; 169.447, subdivision 2; 169.4501, subdivisions 1, 2; 169.4502, subdivision 5; 169.4503, subdivisions 13, 20; 171.02, subdivisions 2, 2a; 171.321, subdivision 4; 205A.03, subdivision 1; 205A.05, subdivision 1; 205A.06, subdivision 1a; 272.029, by adding a subdivision; 273.11, subdivision 1a; 273.1393; 275.065, subdivisions 1, 1a, 3; 275.07, subdivision 2; 275.08, subdivision 1b; 276.04, subdivision 2; 517.08, subdivision 1c; Laws 2005, First Special Session chapter 5, article 1, sections 50, subdivision 2; 54, subdivisions 2, as amended, 4, 5, as amended, 6, as amended, 7, as amended, 8, as amended; article 2, sections 81, as amended; 84, subdivisions 2, as amended, 3, as amended, 4, as amended, 6, as amended, 10, as amended; article 3, section 18, subdivisions 2, as amended, 3, as amended, 4, as amended, 6, as amended; article 4, section 25, subdivisions 2, as amended, 3, as amended; article 5, section 17, subdivision 3, as amended; article 7, section 20, subdivisions 2, as amended, 3, as amended, 4, as amended; article 8, section 8, subdivisions 2, as amended, 5, as amended; article 9, section 4, subdivision 2; Laws 2006, chapter 263, article 3, section 15; Laws 2006, chapter 282, article 2, section 28, subdivision 4; article 3, section 4, subdivision 2; proposing coding for new law in Minnesota

Statutes, chapters 119A; 121A; 122A; 123B; 124D; 135A; repealing Minnesota Statutes 2006, sections 120B.233; 121A.23; 123A.22, subdivision 11; 123B.81, subdivision 8; 124D.06; 124D.081, subdivisions 1, 2, 3, 4, 5, 6, 9; 124D.454, subdivisions 4, 5, 6, 7; 124D.531, subdivision 5; 124D.62; 125A.10; 125A.75, subdivision 6; 125A.76, subdivision 3; 169.4502, subdivision 15; 169.4503, subdivisions 17, 18, 26.

The Senate has appointed as such committee:

Senators Stumpf, Saltzman, Rummel, Wiger and Torres Ray.

Said House File is herewith returned to the House.

COLLEEN J. PACHECO, Second Assistant Secretary of the Senate

Madam 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. 3574, A bill for an act relating to the State Building Code; regulating the application and enforcement of the State Building Code; amending Minnesota Statutes 2006, sections 16B.616, subdivision 4; 16B.62; 16B.71; Minnesota Statutes 2007 Supplement, sections 16B.61, subdivision 3; 16B.735; repealing Minnesota Statutes 2007 Supplement, sections 16B.72; 16B.73.

COLLEEN J. PACHECO, Second Assistant Secretary of the Senate

CONCURRENCE AND REPASSAGE

Juhnke moved that the House concur in the Senate amendments to H. F. No. 3574 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 3574, A bill for an act relating to the State Building Code; regulating the application and enforcement of the State Building Code; modifying continuing education course content for residential contractors and remodelers; requiring commercial general liability insurance for licensees; authorizing Duluth Entertainment and Convention Center Authority to enter contract for construction work on entertainment and convention center; amending Minnesota Statutes 2006, sections 16B.616, subdivision 4; 16B.62; 16B.71; Minnesota Statutes 2007 Supplement, sections 16B.61, subdivision 3; 16B.735; 326.87, subdivision 5; 326.94, subdivision 2; repealing Minnesota Statutes 2007 Supplement, sections 16B.72; 16B.73.

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 110 yeas and 22 nays as follows:

Those who voted in the affirmative were:

Abeler	Atkins	Bly	Brynaert	Clark	Dean
Anderson, S.	Benson	Brod	Bunn	Cornish	Demmer
Anzelc	Bigham	Brown	Carlson	Davnie	Dettmer

Dill	Hausman	Laine	Morgan	Poppe	Tillberry
Dittrich	Haws	Lanning	Morrow	Rukavina	Tingelstad
Dominguez	Hilstrom	Lenczewski	Mullery	Ruth	Tschumper
Doty	Hilty	Lesch	Murphy, E.	Ruud	Urdahl
Eastlund	Hornstein	Liebling	Murphy, M.	Sailer	Wagenius
Eken	Hortman	Lieder	Nelson	Scalze	Walker
Erhardt	Hosch	Lillie	Nornes	Sertich	Ward
Faust	Howes	Loeffler	Norton	Severson	Wardlow
Fritz	Huntley	Madore	Olin	Simon	Welti
Gardner	Jaros	Mahoney	Otremba	Slawik	Winkler
Garofalo	Juhnke	Mariani	Ozment	Slocum	Wollschlager
Gottwalt	Kahn	Marquart	Paymar	Smith	Spk. Kelliher
Greiling	Kalin	Masin	Pelowski	Solberg	
Gunther	Knuth	McFarlane	Peterson, A.	Swails	
Hamilton	Koenen	McNamara	Peterson, N.	Thao	
Hansen	Kranz	Moe	Peterson, S.	Thissen	

Those who voted in the negative were:

Anderson, B.	DeLaForest	Finstad	Johnson	Peppin	Westrom
Beard	Drazkowski	Hackbarth	Kohls	Seifert	Zellers
Berns	Emmer	Heidgerken	Magnus	Shimanski	
Buesgens	Erickson	Holberg	Olson	Simpson	

The bill was repassed, as amended by the Senate, and its title agreed to.

Kalin was excused between the hours of 1:20 p.m. and 2:20 p.m.

Madam Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 3138.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

COLLEEN J. PACHECO, Second Assistant Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. NO. 3138

A bill for an act relating to health; changing provisions for handling genetic information; amending Minnesota Statutes 2006, sections 13.386, subdivision 3; 144.05, by adding a subdivision; Minnesota Statutes 2007 Supplement, section 144.125, subdivision 3.

April 30, 2008

The Honorable James P. Metzen
President of the Senate

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 3138 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S. F. No. 3138 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2006, section 13.386, subdivision 3, is amended to read:

Subd. 3. **Collection, storage, use, and dissemination of genetic information.** (a) Unless otherwise expressly provided by law, genetic information about an individual:

(1) may be collected by a government entity, as defined in section 13.02, subdivision 7a, or any other person only with the written informed consent of the individual;

(2) may be used only for purposes to which the individual has given written informed consent;

(3) may be stored only for a period of time to which the individual has given written informed consent; and

(4) may be disseminated only:

(i) with the individual's written informed consent; or

(ii) if necessary in order to accomplish purposes described by clause (2). A consent to disseminate genetic information under item (i) must be signed and dated. Unless otherwise provided by law, such a consent is valid for one year or for a lesser period specified in the consent.

(b) Notwithstanding paragraph (a), the Department of Health's collection, storage, use, and dissemination of genetic information and blood specimens for testing infants for heritable and congenital disorders are governed by sections 144.125 to 144.128.

Sec. 2. Minnesota Statutes 2007 Supplement, section 144.125, subdivision 3, is amended to read:

Subd. 3. ~~**Objection of parents to test**~~ **Information provided to parents.** ~~Persons with a duty to perform testing under subdivision 1 shall advise parents of infants (1) that the blood or tissue samples used to perform testing thereunder as well as the results of such testing may be retained by the Department of Health, (2) the benefit of retaining the blood or tissue sample, and (3) that the following options are available to them with respect to the testing: (i) to decline to have the tests, or (ii) to elect to have the tests but to require that all blood samples and records of test results be destroyed within 24 months of the testing. If the parents of an infant object in writing to testing for heritable and congenital disorders or elect to require that blood samples and test results be destroyed, the objection or election shall be recorded on a form that is signed by a parent or legal guardian and made part of the infant's medical record. A written objection exempts an infant from the requirements of this section and section 144.128.~~ Persons with a duty to perform testing under subdivision 1 shall advise parents of infants (1) that the blood or tissue samples used to perform testing thereunder as well as the results of such testing may be retained by the Department of Health, (2) the benefit of retaining the blood or tissue sample, and (3) that the following options are available to them with respect to the testing: (i) to decline to have the tests, or (ii) to elect to have the tests but to require that all blood samples and records of test results be destroyed within 24 months of the testing. If the parents of an infant object in writing to testing for heritable and congenital disorders or elect to require that blood samples and test results be destroyed, the objection or election shall be recorded on a form that is signed by a parent or legal guardian and made part of the infant's medical record. A written objection exempts an infant from the requirements of this section and section 144.128.

(a) Prior to collecting a sample, persons with a duty to perform testing under subdivision 1 must provide parents or legal guardians of infants with a document that provides the following information:

(1) the blood sample will be used to test for heritable and congenital disorders, the blood sample will be retained by the Department of Health for a period of at least two years and that the blood sample may be used for public health studies and research;

(2) the data that will be collected as a result of the testing;

(3) the alternatives available to the parents set forth in paragraph (b) and that a form to exercise the alternatives is available from the person with a duty to perform testing under subdivision 1;

(4) the benefits of testing and the consequences of a decision to permit or refuse to supply a sample;

(5) the benefits of retaining the blood sample and the consequences of a decision to destroy the blood sample after two years or to permit or decline to have the blood sample used for public health studies and research;

(6) the ways in which the samples and data collected will be stored and used at the Department of Health and elsewhere; and

(7) the Department of Health's Web site address where the forms referenced in paragraph (b) may be obtained.

This document satisfies the requirements of section 13.04, subdivision 2.

(b) The parent or legal guardian of an infant otherwise subject to testing under this section may object to any of the following:

(1) the testing itself;

(2) the maintenance of the infant's blood samples and test result records for a period longer than 24 months; and

(3) the use of the infant's blood samples and test result records for public health studies and research.

If a parent or legal guardian elects one of the alternatives, the election shall be recorded on a form that is signed by the parent or legal guardian. The signed form shall be made part of the infant's medical record and shall be provided to the Department of Health. The signature of the parent or legal guardian is sufficient and no witness to the signature, photo identification, or notarization shall be required. When a parent or legal guardian elects an alternative under this subdivision, the Department of Health must follow the election and section 144.128. A written election exempts an infant from the requirements of this section and section 144.128.

(c) For purposes of this subdivision, "public health studies and research" includes calibrating newborn screening equipment, evaluating existing newborn screening tests to reduce the number of false positive and false negative results, studying the development of new newborn screening tests for heritable and congenital disorders, and other population-based health studies.

Sec. 3. NEWBORN SCREENING REPORT.

By January 15, 2009, the Department of Health shall report and make recommendations to the legislature on its current efforts for ensuring and enhancing how parents of newborns are fully informed about the newborn screening program and of their rights and options regarding: (1) testing; (2) storage; (3) public health practices, studies, and research; (4) the ability to opt out of the collection of data and specimens related to the testing; and (5) the ability to seek private testing."

Delete the title and insert:

"A bill for an act relating to health; changing provisions for handling genetic information from newborn screening; requiring a report; amending Minnesota Statutes 2006, section 13.386, subdivision 3; Minnesota Statutes 2007 Supplement, section 144.125, subdivision 3."

We request the adoption of this report and repassage of the bill.

Senate Conferees: ANN LYNCH, JULIE A. ROSEN AND MEE MOUA.

House Conferees: PAUL THISSEN, MARIA RUUD AND MARY LIZ HOLBERG.

Thissen moved that the House refuse to adopt the Conference Committee report on S. F. No. 3138, and that the bill be returned to the Conference Committee.

A roll call was requested and properly seconded.

The question was taken on the Thissen motion and the roll was called. There were 128 yeas and 3 nays as follows:

Those who voted in the affirmative were:

Abeler	Dill	Haws	Lieder	Ozment	Solberg
Anderson, S.	Dittrich	Hilstrom	Lillie	Paymar	Swails
Anzelc	Dominguez	Hilty	Loeffler	Pelowski	Thao
Atkins	Doty	Holberg	Madore	Peppin	Thissen
Beard	Drazkowski	Hornstein	Magnus	Peterson, A.	Tillberry
Benson	Eastlund	Hortman	Mahoney	Peterson, N.	Tingelstad
Berns	Eken	Hosch	Mariani	Peterson, S.	Tschumper
Bigham	Emmer	Howes	Marquart	Poppe	Urdahl
Bly	Erhardt	Huntley	Masin	Rukavina	Wagenius
Brod	Erickson	Jaros	McFarlane	Ruth	Walker
Brown	Faust	Johnson	McNamara	Ruud	Ward
Brynaert	Finstad	Juhnke	Moe	Sailer	Wardlow
Buesgens	Fritz	Kahn	Morgan	Scalze	Welti
Bunn	Gardner	Knuth	Morrow	Seifert	Westrom
Carlson	Garofalo	Koenen	Mullery	Sertich	Winkler
Clark	Gottwalt	Kohls	Murphy, E.	Severson	Wollschlager
Cornish	Greiling	Kranz	Murphy, M.	Shimanski	Zellers
Davnie	Gunther	Laine	Nelson	Simon	Spk. Kelliher
Dean	Hackbarth	Lanning	Nornes	Simpson	
DeLaForest	Hamilton	Lenczewski	Norton	Slawik	
Demmer	Hansen	Lesch	Olin	Slocum	
Dettmer	Hausman	Liebling	Otremba	Smith	

Those who voted in the negative were:

Anderson, B. Heidgerken Olson

The motion prevailed.

Madam 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. 3420, A bill for an act relating to local government; revising procedures and fees charged by county registrars of title for registering supplemental declarations of common interest communities; amending Minnesota Statutes 2006, sections 508.82, subdivision 1; 515B.1-116.

COLLEEN J. PACHECO, Second Assistant Secretary of the Senate

Hilstrom moved that the House refuse to concur in the Senate amendments to H. F. No. 3420, that the Speaker appoint a Conference Committee of 3 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses. The motion prevailed.

Madam Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 3166.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

COLLEEN J. PACHECO, Second Assistant Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. NO. 3166

A bill for an act relating to human services; amending child welfare and licensing provisions; adopting a new Interstate Compact for the Placement of Children and repealing the old compact; regulating child and adult adoptions; regulating children in voluntary foster care for treatment; providing targeted case management services to certain children with developmental disabilities; providing for certain data classifications; amending Minnesota Statutes 2006, sections 13.46, by adding subdivisions; 245C.24, subdivision 2; 245C.29, subdivision 2; 256.045, subdivisions 3, 3b; 259.20, subdivision 1; 259.21, by adding a subdivision; 259.22, subdivision 2; 259.23, subdivision 2; 259.43; 259.52, subdivision 2; 259.53, subdivision 3; 259.59, subdivisions 1, 2; 259.67, subdivisions 2, 3, by adding a subdivision; 259.75, subdivision 5; 259.89, subdivisions 1, 2, 4, by adding a subdivision; 260C.001, subdivision 2; 260C.007, subdivisions 5, 6, 13; 260C.101, subdivision 2; 260C.141, subdivision 2; 260C.171, subdivision 2; 260C.178, subdivision 1; 260C.205; 260C.212, subdivisions 7, 8, by adding a subdivision; 260C.325, subdivisions 1, 3; 524.2-114; 626.556, subdivision 7; Minnesota Statutes 2007 Supplement, sections 245C.14, subdivision 1; 245C.15, subdivisions 2, 3, 4; 245C.24, subdivision 3; 245C.27, subdivision 1; 259.41, subdivision 1; 259.57, subdivision 1; 259.67, subdivision 4; 260C.163, subdivision 1; 260C.209, subdivisions 1, 2, by adding a subdivision; 260C.212, subdivisions 1, 4; 626.556, subdivision 10a; Laws 2007, chapter 147, article 2, section 56; proposing coding for new law in Minnesota Statutes, chapters 259; 260; proposing coding for new law as Minnesota Statutes, chapter 260D; repealing Minnesota Statutes 2006, sections 260.851; 260C.141, subdivision 2a; 260C.431; 260C.435; Minnesota Statutes 2007 Supplement, section 260C.212, subdivision 9; Minnesota Rules, part 9560.0609.

May 6, 2008

The Honorable James P. Metzen
President of the Senate

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 3166 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S. F. No. 3166 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

CHILD WELFARE

Section 1. Minnesota Statutes 2006, section 259.20, subdivision 1, is amended to read:

Subdivision 1. **Policy and purpose.** The policy of the state of Minnesota and the purpose of sections 259.20 to 259.69 is to ensure:

- (1) that the best interests of ~~children~~ adopted persons are met in the planning and granting of adoptions; and
- (2) that laws and practices governing adoption recognize the diversity of Minnesota's population and the diverse needs of persons affected by adoption.

Sec. 2. Minnesota Statutes 2006, section 259.21, is amended by adding a subdivision to read:

Subd. 2a. **Adult adoption.** "Adult adoption" means the adoption of a person at least 18 years of age.

Sec. 3. Minnesota Statutes 2006, section 259.22, subdivision 2, is amended to read:

Subd. 2. **Children Persons who may be adopted.** No petition for adoption shall be filed unless the ~~child~~ 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

- (a) the ~~child~~ person to be adopted is over 14 years of age;
- (b) the child is sought to be adopted by an individual who is related to the child, as defined by section 245A.02, subdivision 13;
- (c) the child has been lawfully placed under the laws of another state while the child and petitioner resided in that other state;
- (d) 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
- (e) the child has been lawfully placed under section 259.47.

Sec. 4. Minnesota Statutes 2006, section 259.23, subdivision 2, is amended to read:

Subd. 2. **Contents of petition.** The petition shall be signed by the petitioner and, if married, by the spouse. It shall be verified, and filed in duplicate. The petition shall allege:

- (a) The full name, age and place of residence of petitioner, and if married, the date and place of marriage;
- (b) The date petitioner acquired physical custody of the child and from what person or agency;
- (c) The date of birth of the ~~child~~ person to be adopted, if known, and the state and county where born;
- (d) The name of the child's parents, if known, and the guardian if there be one;
- (e) The actual name of the ~~child~~ person to be adopted, if known, and any known aliases;
- (f) The name to be given the ~~child~~ person to be adopted if a change of name is desired;
- (g) The description and value of any real or personal property owned by the ~~child~~ person to be adopted;

(h) That the petitioner desires that the relationship of parent and child be established between petitioner and ~~the child, and that it is to the~~ the person to be adopted and that adoption is in the best interests of the ~~child for the child person~~ person to be adopted by the petitioner.

In agency placements, the information required in clauses (d) and (e) shall not be required to be alleged in the petition but shall be transmitted to the court by the commissioner of human services or the agency.

Sec. 5. **[259.241] ADULT ADOPTION.**

(a) Any adult person may be adopted, regardless of his or her residence. A resident of Minnesota may petition the court of record having jurisdiction of adoption proceedings to adopt an individual who has reached the age of 18 years or older.

(b) The consent of the person to be adopted shall be the only consent necessary, according to section 259.24. The consent of an adult in his or her own adoption is invalid if the adult is considered to be a vulnerable adult under section 626.5572, subdivision 21, or if the person consenting to the adoption is determined not competent to give consent.

(c) The decree of adoption establishes a parent-child relationship between the adopting parent or parents and the person adopted, including the right to inherit, and also terminates the parental rights and sibling relationship between the adopted person and the adopted person's birth parents and siblings according to section 259.59.

(d) If the adopted person requests a change of name, the adoption decree shall order the name change.

Sec. 6. Minnesota Statutes 2007 Supplement, section 259.41, subdivision 1, is amended to read:

Subdivision 1. **Study required before placement; certain relatives excepted.** (a) An approved adoption study; completed background study, as required under section 245C.33; and written report must be completed before the child is placed in a prospective adoptive home under this chapter, except as allowed by section 259.47, subdivision 6. In an agency placement, the report must be filed with the court at the time the adoption petition is

filed. In a direct adoptive placement, the report must be filed with the court in support of a motion for temporary preadoptive custody under section 259.47, subdivision 3, or, if the study and report are complete, in support of an emergency order under section 259.47, subdivision 6. The study and report shall be completed by a licensed child-placing agency and must be thorough and comprehensive. The study and report shall be paid for by the prospective adoptive parent, except as otherwise required under section 256.01, subdivision 2, paragraph (h), 259.67, or 259.73.

(b) A placement for adoption with an individual who is related to the child, as defined by section 245A.02, subdivision 13, is ~~not subject to this section except as a background study required by sections 245C.33 and 259.53, subdivision 2, paragraph (e) by subdivision 2, paragraph (a), clause (1), items (i) and (ii), and subdivision 3.~~ In the case of a stepparent adoption, a background study must be completed on the stepparent and any children as required under subdivision 3, paragraph (b), except that a child of the stepparent does not need to have a background study complete if they are a sibling through birth or adoption of the person being adopted. The local social services agency of the county in which the prospective adoptive parent lives must initiate a background study unless a child-placing agency has been involved with the adoption. The local social service agency may charge a reasonable fee for the background study. If a placement is being made the background study must be completed prior to placement pursuant to section 259.29, subdivision 1, paragraph (c). Background study results must be filed with the adoption petition according to section 259.22, except in an adult adoption where an adoption study and background study are not needed.

(c) In the case of a licensed foster parent seeking to adopt a child who is in the foster parent's care, any portions of the foster care licensing process that duplicate requirements of the home study may be submitted in satisfaction of the relevant requirements of this section.

Sec. 7. Minnesota Statutes 2006, section 259.43, is amended to read:

259.43 BIRTH PARENT HISTORY; COMMISSIONER'S FORM.

In any adoption under this chapter, except a stepparent or an adult adoption under section 259.241, a birth parent or an agency, if an agency placement, shall provide a prospective adoptive parent with a complete, thorough, detailed, and current social and medical history of the ~~birth families~~ child being adopted, if information is known after reasonable inquiry. Each ~~birth-family~~ child's social and medical history must be provided on a form or forms prepared by the commissioner and must include background and health history specific to the child, the child's birth parents, and the child's other birth relatives. Applicable background and health information about the child includes: the child's current health condition, behavior, and demeanor; placement history; education history; sibling information; and birth, medical, dental, and immunization information. Redacted copies of pertinent records, assessments, and evaluations shall be attached to the child's social and medical history. Applicable background information about the child's birth parents and other birth relatives includes: general background information; education and employment history; physical health and mental health history; and reasons for the child's placement. The child's social and medical history shall be completed in a manner so that the completed form protects the identities of all individuals described in it. The commissioner shall make the form available to agencies and court administrators for public distribution. The birth-family child's social and medical history must be provided to the prospective adoptive family prior to adoptive placement, provided to the Department of Human Services with application for adoption assistance, if applicable, and filed with the court when the adoption petition is filed, or, In a direct adoptive placement, the child's social and medical history must be filed with the court with the motion for temporary preadoptive custody.

Sec. 8. Minnesota Statutes 2006, section 259.52, subdivision 2, is amended to read:

Subd. 2. **Requirement to search registry before adoption petition can be granted; proof of search.** No petition for adoption may be granted unless the agency supervising the adoptive placement, the birth mother of the child, or, in the case of a stepparent or relative adoption, the county agency responsible for the report required under section 259.53, subdivision 1, requests that the commissioner of health search the registry to determine whether a

putative father is registered in relation to a child who is or may be the subject of an adoption petition. The search required by this subdivision must be conducted no sooner than 31 days following the birth of the child. A search of the registry may be proven by the production of a certified copy of the registration form or by a certified statement of the commissioner of health that after a search no registration of a putative father in relation to a child who is or may be the subject of an adoption petition could be located. The filing of a certified copy of an order from a juvenile protection matter under chapter 260C containing a finding that certification of the requisite search of the Minnesota Fathers' Adoption Registry was filed with the court in that matter shall also constitute proof of search. Certification that the fathers' adoption registry has been searched must be filed with the court prior to entry of any final order of adoption. In addition to the search required by this subdivision, the agency supervising the adoptive placement, the birth mother of the child, or, in the case of a stepparent or relative adoption, the ~~county~~ social services agency responsible for the report under section 259.53, subdivision 1, or the responsible social services agency that is a petitioner in a juvenile protection matter under chapter 260C may request that the commissioner of health search the registry at any time.

Sec. 9. Minnesota Statutes 2006, section 259.53, subdivision 3, is amended to read:

Subd. 3. **Reports and records.** (a) The contents of all reports and records of the commissioner of human services, local social services agency, or child-placing agency bearing on the suitability of the proposed adoptive home and the child to each other shall not be disclosed either directly or indirectly to any person other than the commissioner of human services, the child's guardian ad litem appointed under: (1) section 260C.163 when the guardian's appointment continues under section 260C.317, subdivision 3, paragraph (b); or (2) section 259.65, or a judge of the court having jurisdiction of the matter, except as provided in paragraph (b).

(b) A judge of the court having jurisdiction of the matter shall upon request disclose to a party to the proceedings or the party's counsel any portion of a report or record that relates only to the suitability of the proposed adoptive parents. In this disclosure, the judge may withhold the identity of individuals providing information in the report or record. When the judge is considering whether to disclose the identity of individuals providing information, the agency with custody of the report or record shall be permitted to present reasons for or against disclosure.

Sec. 10. Minnesota Statutes 2007 Supplement, section 259.57, subdivision 1, is amended to read:

Subdivision 1. **Findings; orders.** Upon the hearing,

(a) if the court finds that it is in the best interests of the ~~child~~ person to be adopted that the petition be granted, a decree of adoption shall be made and recorded in the office of the court administrator, ordering that henceforth the ~~child~~ person to be adopted shall be the child of the petitioner. In the decree the court may change the name of the ~~child~~ adopted person if desired. After the decree is granted for ~~a child~~ an adopted person who is:

(1) under the guardianship of the commissioner or a licensed child-placing agency according to section 260C.201, subdivision 11, or 260C.317;

(2) placed by the commissioner, commissioner's agent, or licensed child-placing agency after a consent to adopt according to section 259.24 or under an agreement conferring authority to place for adoption according to section 259.25; or

(3) adopted after a direct adoptive placement ordered by the district court under section 259.47,

the court administrator shall immediately mail a copy of the recorded decree to the commissioner of human services;

(b) if the court is not satisfied that the proposed adoption is in the best interests of the child person to be adopted, the court shall deny the petition, and in the case of a child shall order the child returned to the custody of the person or agency legally vested with permanent custody or certify the case for appropriate action and disposition to the court having jurisdiction to determine the custody and guardianship of the child.

Sec. 11. Minnesota Statutes 2006, section 259.59, subdivision 1, is amended to read:

Subdivision 1. **Legal effect.** Upon adoption, the child adopted person shall become the legal child of the adopting persons and they shall become the legal parents of the child with all the rights and duties between them of birth parents and legitimate child. By virtue of the adoption the child adopted person shall inherit from the adoptive parents or their relatives the same as though the child adopted person were the natural child of the parents, and in case of the child's adopted person's death intestate the adoptive parents and their relatives shall inherit the child's adopted person's estate as if ~~they~~ the adopted person had been the child's birth parents and relatives. After a decree of adoption is entered the birth parents of an adopted child person shall be relieved of all parental responsibilities for the child adopted person, and they shall not exercise or have any rights over the adopted child person or the child's adopted person's property. The child adopted person shall not owe the birth parents or their relatives any legal duty nor shall the child adopted person inherit from the birth parents or kindred, except as provided in subdivision 1a and section 257C.08, subdivision 6.

Sec. 12. Minnesota Statutes 2006, section 259.59, subdivision 2, is amended to read:

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

Sec. 13. Minnesota Statutes 2006, section 259.67, subdivision 2, is amended to read:

Subd. 2. **Adoption assistance agreement.** The placing agency shall certify a child as eligible for adoption assistance according to rules promulgated by the commissioner. The placing agency shall not certify a child who remains under the jurisdiction of the sending agency pursuant to section 260.851, article 5, for state-funded adoption assistance when Minnesota is the receiving state. Not later than 30 days after a parent or parents are found and approved for adoptive placement of a child certified as eligible for adoption assistance, and before the final decree of adoption is issued, a written agreement must be entered into by the commissioner, the adoptive parent or parents, and the placing agency. The written agreement must be fully completed by the placing agency and in the form prescribed by the commissioner and must set forth the responsibilities of all parties, the anticipated duration of the adoption assistance payments, and the payment terms. The adoption assistance agreement shall be subject to the commissioner's approval, which must be granted or denied not later than 15 days after the agreement is entered.

The amount of adoption assistance is subject to the availability of state and federal funds and shall be determined through agreement with the adoptive parents. The agreement shall take into consideration the circumstances of the adopting parent or parents, the needs of the child being adopted and may provide ongoing monthly assistance, supplemental maintenance expenses related to the ~~adopted person's~~ child's special needs, nonmedical expenses periodically necessary for purchase of services, items, or equipment related to the special needs, and medical expenses. The placing agency or the adoptive parent or parents shall provide written documentation to support the need for adoption assistance payments. The commissioner may require periodic reevaluation of adoption assistance payments. The amount of ongoing monthly adoption assistance granted may in no case exceed that which would be allowable for the child under foster family care and is subject to the availability of state and federal funds.

Sec. 14. Minnesota Statutes 2006, section 259.67, subdivision 3, is amended to read:

Subd. 3. ~~Annual affidavit~~ **Modification or termination of the adoption assistance agreement.** ~~When adoption assistance agreements are for more than one year, the adoptive parents or guardian or conservator shall annually present an affidavit stating whether the adopted person remains under their care and whether the need for adoption assistance continues to exist. The commissioner may verify the affidavit. The adoption assistance agreement shall continue in accordance with its terms as long as the need for adoption assistance continues and the adopted person child is the legal or financial dependent of the adoptive parent or parents or guardian or conservator and is under 18 years of age. The adoption assistance agreement may be extended to age 22 as allowed by rules adopted by the commissioner. Termination or modification of the adoption assistance agreement may be requested by the adoptive parents or subsequent guardian or conservator at any time. When the commissioner determines that a child is eligible for adoption assistance under Title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 679a, the commissioner shall modify the adoption assistance agreement in order to obtain the funds under that act.~~

Sec. 15. Minnesota Statutes 2006, section 259.67, is amended by adding a subdivision to read:

Subd. 3a. **Recovery of overpayments.** An amount of adoption assistance paid to an adoptive parent in excess of the payment due is recoverable by the commissioner, even when the overpayment was caused by agency error or circumstances outside the responsibility and control of the family or provider. Adoption assistance amounts covered by this subdivision 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. 16. Minnesota Statutes 2007 Supplement, section 259.67, subdivision 4, is amended to read:

Subd. 4. **Eligibility conditions.** (a) The placing agency shall use the AFDC requirements as specified in federal law as of July 16, 1996, when determining the child's eligibility for adoption assistance under title IV-E of the Social Security Act. If the child does not qualify, the placing agency shall certify a child as eligible for state funded adoption assistance only if the following criteria are met:

(1) Due to the child's characteristics or circumstances it would be difficult to provide the child an adoptive home without adoption assistance.

(2)(i) A placement agency has made reasonable efforts to place the child for adoption without adoption assistance, but has been unsuccessful; ~~or~~

(ii) the child's licensed foster parents desire to adopt the child and it is determined by the placing agency that the adoption is in the best interest of the child; or

(iii) the child's relative, as defined in section 260C.007, subdivision 27, desires to adopt the child, and it is determined by the placing agency that the adoption is in the best interest of the child.

(3)(i) The child ~~has been~~ is a ward of the commissioner, ~~a Minnesota licensed child placing agency,~~ or a tribal social service agency of Minnesota recognized by the Secretary of the Interior; or (ii) the child will be adopted according to tribal law without a termination of parental rights or relinquishment, provided that the tribe has documented the valid reason why the child cannot or should not be returned to the home of the child's parent. The placing agency shall not certify a child who remains under the jurisdiction of the sending agency pursuant to section 260.851, article 5, for state-funded adoption assistance when Minnesota is the receiving state. A child who is adopted by the child's legal custodian or guardian shall not be eligible for state-funded adoption assistance.

(b) ~~For purposes of this subdivision, The characteristics or circumstances that may be considered in determining whether a child is a child with special needs under United States Code, title 42, chapter 7, subchapter IV, part E, or meets the requirements of paragraph (a), clause (1), or section 473(c)(2)(A) of the Social Security Act, are the following:~~

(1) The child is a member of a sibling group to be placed as one unit in which at least one sibling is older than 15 months of age or is described in clause (2) or (3).

(2) The child has documented physical, mental, emotional, or behavioral disabilities.

(3) The child has a high risk of developing physical, mental, emotional, or behavioral disabilities.

(4) The child is five years of age or older.

(c) When a child's eligibility for adoption assistance is based upon the high risk of developing physical, mental, emotional, or behavioral disabilities, payments shall not be made under the adoption assistance agreement unless and until the potential disability manifests itself as documented by an appropriate health care professional.

Sec. 17. Minnesota Statutes 2006, section 259.75, subdivision 5, is amended to read:

Subd. 5. **Withdrawal of registration.** A child's registration shall be withdrawn when the exchange service has been notified in writing by the local social service agency ~~and or~~ the licensed child-placing agency that the child has been ~~adopted, has become 14 years old and will not consent to an adoption plan, placed in an adoptive home~~ or has died.

Sec. 18. Minnesota Statutes 2006, section 259.89, subdivision 1, is amended to read:

Subdivision 1. **Request.** An adopted person who is 19 years of age or over may request the commissioner of health to disclose the information on the adopted person's original birth record. The commissioner of health shall, within five days of receipt of the request, notify the commissioner of human ~~services~~ services' agent or licensed child-placing agency when known, or the commissioner of human services when the agency is not known in writing of the request by the adopted person.

Sec. 19. Minnesota Statutes 2006, section 259.89, subdivision 2, is amended to read:

Subd. 2. **Search.** Within six months after receiving notice of the request of the adopted person, the commissioner of human ~~services~~ services' agent or a licensed child-placing agency shall make complete and reasonable efforts to notify each parent identified on the original birth record of the adopted person. The commissioner, the commissioner's agents, and licensed child-placing agencies may charge a reasonable fee to the adopted person for the cost of making a search pursuant to this subdivision. Every licensed child-placing agency in the state shall cooperate with the commissioner of human services in efforts to notify an identified parent. All communications under this subdivision are confidential pursuant to section 13.02, subdivision 3.

For purposes of this subdivision, "notify" means a personal and confidential contact with the birth parents named on the original birth record of the adopted person. The contact ~~shall not be by mail and~~ shall be by an employee or agent of the licensed child-placing agency which processed the pertinent adoption or some other licensed child-placing agency designated by the commissioner of human services when it is determined to be reasonable by the commissioner; otherwise contact shall be by mail or telephone. The contact shall be evidenced by filing with the commissioner of health an affidavit of notification executed by the person who notified each parent certifying that each parent was given the following information:

- ~~(a)~~ (1) the nature of the information requested by the adopted person;
- ~~(b)~~ (2) the date of the request of the adopted person;
- ~~(c)~~ (3) the right of the parent to file, within 30 days of receipt of the notice, an affidavit with the commissioner of health stating that the information on the original birth record should not be disclosed;
- ~~(d)~~ (4) the right of the parent to file a consent to disclosure with the commissioner of health at any time; and
- ~~(e)~~ (5) the effect of a failure of the parent to file either a consent to disclosure or an affidavit stating that the information on the original birth record should not be disclosed.

Sec. 20. Minnesota Statutes 2006, section 259.89, subdivision 4, is amended to read:

Subd. 4. **Release of information after notice.** If, within six months, the commissioner of human ~~services~~ ~~certifies services'~~ agent or licensed child-placing agency document to the commissioner of health notification of each parent identified on the original birth record pursuant to subdivision 2, the commissioner of health shall disclose the information requested by the adopted person 31 days after the date of the latest notice to either parent. This disclosure will occur if, at any time during the 31 days both of the parents identified on the original birth record have filed a consent to disclosure with the commissioner of health and neither consent to disclosure has been revoked by the subsequent filing by a parent of an affidavit stating that the information should not be disclosed. If only one parent has filed a consent to disclosure and the consent has not been revoked, the commissioner of health shall disclose, to the adopted person, original birth record information on the consenting parent only.

Sec. 21. Minnesota Statutes 2006, section 259.89, is amended by adding a subdivision to read:

Subd. 7. **Adult adoptions.** Notwithstanding section 144.218, a person adopted as an adult shall be permitted to access the person's birth records that existed prior to the adult adoption. Access to the existing birth records shall be the same access that was permitted prior to the adult adoption.

Sec. 22. Minnesota Statutes 2006, section 260.835, is amended to read:

260.835 AMERICAN INDIAN CHILD WELFARE ADVISORY COUNCIL.

Subdivision 1. **Creation.** The commissioner shall appoint an American Indian Advisory Council to help formulate policies and procedures relating to Indian child welfare services and to make recommendations regarding approval of grants provided under section 260.785, subdivisions 1, 2, and 3. The council shall consist of 17 members appointed by the commissioner and must include representatives of each of the 11 Minnesota reservations who are authorized by tribal resolution, one representative from the Duluth Urban Indian Community, three representatives from the Minneapolis Urban Indian Community, and two representatives from the St. Paul Urban Indian Community. Representatives from the urban Indian communities must be selected through an open appointments process under section 15.0597. The terms, compensation, and removal of American Indian Child Welfare Advisory Council members shall be as provided in section 15.059.

Subd. 2. **Expiration.** Notwithstanding section 15.059, subdivision 5, the American Indian Child Welfare Advisory Council expires June 30, ~~2008~~ 2012.

Sec. 23. [260.853] INTERSTATE COMPACT FOR THE PLACEMENT OF CHILDREN.

ARTICLE I. PURPOSE

The purpose of this Interstate Compact for the Placement of Children is to:

A. Provide a process through which children subject to this compact are placed in safe and suitable homes in a timely manner.

B. Facilitate ongoing supervision of a placement, the delivery of services, and communication between the states.

C. Provide operating procedures that will ensure that children are placed in safe and suitable homes in a timely manner.

D. Provide for the promulgation and enforcement of administrative rules implementing the provisions of this compact and regulating the covered activities of the member states.

E. Provide for uniform data collection and information sharing between member states under this compact.

F. Promote coordination between this compact, the Interstate Compact for Juveniles, the Interstate Compact on Adoption and Medical Assistance and other compacts affecting the placement of and which provide services to children otherwise subject to this compact.

G. Provide for a state's continuing legal jurisdiction and responsibility for placement and care of a child that it would have had if the placement were intrastate.

H. Provide for the promulgation of guidelines, in collaboration with Indian tribes, for interstate cases involving Indian children as is or may be permitted by federal law.

ARTICLE II. DEFINITIONS

As used in this compact,

A. "Approved placement" means the public child-placing agency in the receiving state has determined that the placement is both safe and suitable for the child.

B. "Assessment" means an evaluation of a prospective placement by a public child-placing agency to determine whether the placement meets the individualized needs of the child, including but not limited to the child's safety and stability, health and well-being, and mental, emotional, and physical development. An assessment is only applicable to a placement by a public child-placing agency.

C. "Child" means an individual who has not attained the age of eighteen (18).

D. "Certification" means to attest, declare or sworn to before a judge or notary public.

E. "Default" means the failure of a member state to perform the obligations or responsibilities imposed upon it by this compact, the bylaws or rules of the Interstate Commission.

F. "Home Study" means an evaluation of a home environment conducted according to the applicable requirements of the State in which the home is located, and documents the preparation and the suitability of the placement resource for placement of a child according to the laws and requirements of the state in which the home is located.

G. "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaskan native village as defined in section 3 (c) of the Alaska Native Claims settlement Act at 43 USC§1602(c).

H. "Interstate Commission for the Placement of Children" means the commission that is created under Article VIII of this compact and which is generally referred to as the Interstate Commission.

I. "Jurisdiction" means the power and authority of a court to hear and decide matters.

J. "Legal Risk Placement" ("Legal Risk Adoption") means a placement made preliminary to an adoption where the prospective adoptive parents acknowledge in writing that a child can be ordered returned to the sending state or the birth mother's state of residence, if different from the sending state and a final decree of adoption shall not be entered in any jurisdiction until all required consents are obtained or are dispensed with according to applicable law.

K. "Member state" means a state that has enacted this compact.

L. "Noncustodial parent" means a person who, at the time of the commencement of court proceedings in the sending state, does not have sole legal custody of the child or has joint legal custody of a child, and who is not the subject of allegations or findings of child abuse or neglect.

M. "Nonmember state" means a state which has not enacted this compact.

N. "Notice of residential placement" means information regarding a placement into a residential facility provided to the receiving state including, but not limited to the name, date and place of birth of the child, the identity and address of the parent or legal guardian, evidence of authority to make the placement, and the name and address of the facility in which the child will be placed. Notice of residential placement shall also include information regarding a discharge and any unauthorized absence from the facility.

O. "Placement" means the act by a public or private child-placing agency intended to arrange for the care or custody of a child in another state.

P. "Private child-placing agency" means any private corporation, agency, foundation, institution, or charitable organization, or any private person or attorney that facilitates, causes, or is involved in the placement of a child from one state to another and that is not an instrumentality of the state or acting under color of state law.

Q. "Provisional placement" means a determination made by the public child-placing agency in the receiving state that the proposed placement is safe and suitable, and, to the extent allowable, the receiving state has temporarily waived its standards or requirements otherwise applicable to prospective foster or adoptive parents so as to not delay the placement. Completion of an assessment and the receiving state requirements regarding training for prospective foster or adoptive parents shall not delay an otherwise safe and suitable placement.

R. "Public child-placing agency" means any government child welfare agency or child protection agency or a private entity under contract with such an agency, regardless of whether they act on behalf of a state, county, municipality or other governmental unit and which facilitates, causes, or is involved in the placement of a child from one state to another.

S. "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought.

T. "Relative" means someone who is related to the child as a parent, step-parent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin or a non-relative with such significant ties to the child that they may be regarded as relatives as determined by the court in the sending state.

U. "Residential Facility" means a facility providing a level of care that is sufficient to substitute for parental responsibility or foster care, and is beyond what is needed for assessment or treatment of an acute condition. For purposes of the compact, residential facilities do not include institutions primarily educational in character, hospitals or other medical facilities.

V. "Rule" means a written directive, mandate, standard or principle issued by the Interstate Commission promulgated pursuant to Article XI of this compact that is of general applicability and that implements, interprets or prescribes a policy or provision of the compact. "Rule" has the force and effect of an administrative rule in a member state, and includes the amendment, repeal, or suspension of an existing rule.

W. "Sending state" means the state from which the placement of a child is initiated.

X. "Service member's permanent duty station" means the military installation where an active duty Armed Services member is currently assigned and is physically located under competent orders that do not specify the duty as temporary.

Y. "Service member's state of legal residence" means the state in which the active duty Armed Services member is considered a resident for tax and voting purposes.

Z. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other territory of the United States.

AA. "State court" means a judicial body of a state that is vested by law with responsibility for adjudicating cases involving abuse, neglect, deprivation, delinquency or status offenses of individuals who have not attained the age of eighteen (18).

BB. "Supervision" means monitoring provided by the receiving state once a child has been placed in a receiving state pursuant to this compact.

ARTICLE III. APPLICABILITY

A. Except as otherwise provided in Article III, Section B, this compact shall apply to:

1. The interstate placement of a child subject to ongoing court jurisdiction in the sending state, due to allegations or findings that the child has been abused, neglected, or deprived as defined by the laws of the sending state, provided, however, that the placement of such a child into a residential facility shall only require notice of residential placement to the receiving state prior to placement.

2. The interstate placement of a child adjudicated delinquent or unmanageable based on the laws of the sending state and subject to ongoing court jurisdiction of the sending state if:

a. the child is being placed in a residential facility in another member state and is not covered under another compact; or

b. the child is being placed in another member state and the determination of safety and suitability of the placement and services required is not provided through another compact.

3. The interstate placement of any child by a public child-placing agency or private child-placing agency as defined in this compact as a preliminary step to a possible adoption.

B. The provisions of this compact shall not apply to:

1. The interstate placement of a child in a custody proceeding in which a public child placing agency is not a party, provided the placement is not intended to effectuate an adoption.

2. The interstate placement of a child with a non-relative in a receiving state by a parent with the legal authority to make such a placement provided, however, that the placement is not intended to effectuate an adoption.

3. The interstate placement of a child by one relative with the lawful authority to make such a placement directly with a relative in a receiving state.

4. The placement of a child, not subject to Article III, Section A, into a residential facility by his parent.

5. The placement of a child with a noncustodial parent provided that:

a. The noncustodial parent proves to the satisfaction of a court in the sending state a substantial relationship with the child; and

b. The court in the sending state makes a written finding that placement with the non-custodial parent is in the best interests of the child; and

c. The court in the sending state dismisses its jurisdiction over the child's case.

6. A child entering the United States from a foreign country for the purpose of adoption or leaving the United States to go to a foreign country for the purpose of adoption in that country.

7. Cases in which a U.S. citizen child living overseas with his family, at least one of whom is in the U.S. Armed Services, and who is stationed overseas, is removed and placed in a state.

8. The sending of a child by a public child-placing agency or a private child-placing agency for a visit as defined by the rules of the Interstate Commission.

C. For purposes of determining the applicability of this compact to the placement of a child with a family in the Armed Services, the public child-placing agency or private child-placing agency may choose the state of the service member's permanent duty station or the service member's declared legal residence.

D. Nothing in this compact shall be construed to prohibit the concurrent application of the provisions of this compact with other applicable interstate compacts including the Interstate Compact for Juveniles and the Interstate Compact on Adoption and Medical Assistance. The Interstate Commission may in cooperation with other interstate compact commissions having responsibility for the interstate movement, placement or transfer of children, promulgate like rules to ensure the coordination of services, timely placement of children, and the reduction of unnecessary or duplicative administrative or procedural requirements.

ARTICLE IV. JURISDICTION

A. Except as provided in Article IV, Section G, concerning private and independent adoptions and in interstate placements in which the public child placing agency is not a party to a custody proceeding, the sending state shall retain jurisdiction over a child with respect to all matters of custody and disposition of the child which it would have had if the child had remained in the sending state. Such jurisdiction shall also include the power to order the return of the child to the sending state.

B. When an issue of child protection or custody is brought before a court in the receiving state, such court shall confer with the court of the sending state to determine the most appropriate forum for adjudication.

C. In accordance with its own laws, the court in the sending state shall have authority to terminate its jurisdiction if:

1. The child is reunified with the parent in the receiving state who is the subject of allegations or findings of abuse or neglect, only with the concurrence of the public child-placing agency in the receiving state; or

2. The child is adopted;

3. The child reaches the age of majority under the laws of the sending state; or

4. The child achieves legal independence pursuant to the laws of the sending state; or

5. A guardianship is created by a court in the receiving state with the concurrence of the court in the sending state; or

6. An Indian tribe has petitioned for and received jurisdiction from the court in the sending state; or

7. The public child-placing agency of the sending state requests termination and has obtained the concurrence of the public child-placing agency in the receiving the state.

D. When a sending state court terminates its jurisdiction, the receiving state child-placing agency shall be notified.

E. Nothing in this article shall defeat a claim of jurisdiction by a receiving state court sufficient to deal with an act of truancy, delinquency, crime or behavior involving a child as defined by the laws of the receiving state committed by the child in the receiving state which would be a violation of its laws.

F. Nothing in this article shall limit the receiving state's ability to take emergency jurisdiction for the protection of the child.

G. The substantive laws of the state in which an adoption will be finalized shall solely govern all issues relating to the adoption of the child and the court in which the adoption proceeding is filed shall have subject matter jurisdiction regarding all substantive issues relating to the adoption, except:

1. when the child is a ward of another court that established jurisdiction over the child prior to the placement;

2. when the child is in the legal custody of a public agency in the sending state; or

3. when the court in the sending state has otherwise appropriately assumed jurisdiction over the child, prior to the submission of the request for approval of placement.

ARTICLE V. PLACEMENT EVALUATION

A. Prior to sending, bringing, or causing a child to be sent or brought into a receiving state, the public child-placing agency shall provide a written request for assessment to the receiving state.

B. For placements by a private child-placing agency, a child may be sent or brought, or caused to be sent or brought, into a receiving state, upon receipt and immediate review of the required content in a request for approval of a placement in both the sending and receiving state public child-placing agency. The required content to accompany a request for provisional approval shall include all of the following:

1. A request for approval identifying the child, birth parents, the prospective adoptive parents, and the supervising agency, signed by the person requesting approval; and

2. The appropriate consents or relinquishments signed by the birthparents in accordance with the laws of the sending state or, where permitted, the laws of the state where the adoption will be finalized; and

3. Certification by a licensed attorney or other authorized agent of a private adoption agency that the consent or relinquishment is in compliance with the applicable laws of the sending state, or where permitted the laws of the state where finalization of the adoption will occur; and

4. A home study; and

5. An acknowledgment of legal risk signed by the prospective adoptive parents.

C. The sending state and the receiving state may request additional information or documents prior to finalization of an approved placement, but they may not delay travel by the prospective adoptive parents with the child if the required content for approval has been submitted, received, and reviewed by the public child-placing agency in both the sending state and the receiving state.

D. Approval from the public child-placing agency in the receiving state for a provisional or approved placement is required as provided for in the rules of the Interstate Commission.

E. The procedures for making, and the request for an assessment, shall contain all information and be in such form as provided for in the rules of the Interstate Commission.

F. Upon receipt of a request from the public child-placing agency of the sending state, the receiving state shall initiate an assessment of the proposed placement to determine its safety and suitability. If the proposed placement is a placement with a relative, the public child-placing agency of the sending state may request a determination for a provisional placement.

G. The public child-placing agency in the receiving state may request from the public child-placing agency or the private child-placing agency in the sending state, and shall be entitled to receive supporting or additional information necessary to complete the assessment.

ARTICLE VI. PLACEMENT AUTHORITY

A. Except as otherwise provided in this compact, no child subject to this compact shall be placed into a receiving state until approval for such placement is obtained.

B. If the public child-placing agency in the receiving state does not approve the proposed placement then the child shall not be placed. The receiving state shall provide written documentation of any such determination in accordance with the rules promulgated by the Interstate Commission. Such determination is not subject to judicial review in the sending state.

C. If the proposed placement is not approved, any interested party shall have standing to seek an administrative review of the receiving state's determination.

1. The administrative review and any further judicial review associated with the determination shall be conducted in the receiving state pursuant to its applicable administrative procedures.

2. If a determination not to approve the placement of the child in the receiving state is overturned upon review, the placement shall be deemed approved, provided however that all administrative or judicial remedies have been exhausted or the time for such remedies has passed.

ARTICLE VII. PLACING AGENCY RESPONSIBILITY

A. For the interstate placement of a child made by a public child-placing agency or state court:

1. The public child-placing agency in the sending state shall have financial responsibility for:

a. the ongoing support and maintenance for the child during the period of the placement, unless otherwise provided for in the receiving state; and

b. as determined by the public child-placing agency in the sending state, services for the child beyond the public services for which the child is eligible in the receiving state.

2. The receiving state shall only have financial responsibility for:

a. any assessment conducted by the receiving state; and

b. supervision conducted by the receiving state at the level necessary to support the placement as agreed upon by the public child-placing agencies of the receiving and sending state.

3. Nothing in this provision shall prohibit public child-placing agencies in the sending state from entering into agreements with licensed agencies or persons in the receiving state to conduct assessments and provide supervision.

B. For the placement of a child by a private child-placing agency preliminary to a possible adoption, the private child-placing agency shall be:

1. Legally responsible for the child during the period of placement as provided for in the law of the sending state until the finalization of the adoption.

2. Financially responsible for the child absent a contractual agreement to the contrary.

C. The public child-placing agency in the receiving state shall provide timely assessments, as provided for in the rules of the Interstate Commission.

D. The public child-placing agency in the receiving state shall provide, or arrange for the provision of, supervision and services for the child, including timely reports, during the period of the placement.

E. Nothing in this compact shall be construed as to limit the authority of the public child-placing agency in the receiving state from contracting with a licensed agency or person in the receiving state for an assessment or the provision of supervision or services for the child or otherwise authorizing the provision of supervision or services by a licensed agency during the period of placement.

F. Each member state shall provide for coordination among its branches of government concerning the state's participation in, and compliance with, the compact and Interstate Commission activities, through the creation of an advisory council or use of an existing body or board.

G. Each member state shall establish a central state compact office, which shall be responsible for state compliance with the compact and the rules of the Interstate Commission.

H. The public child-placing agency in the sending state shall oversee compliance with the provisions of the Indian Child Welfare Act (25 USC 1901 et seq.) for placements subject to the provisions of this compact, prior to placement.

I. With the consent of the Interstate Commission, states may enter into limited agreements that facilitate the timely assessment and provision of services and supervision of placements under this compact.

ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN

The member states hereby establish, by way of this compact, a commission known as the "Interstate Commission for the Placement of Children." The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

A. Be a joint commission of the member states and shall have the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by subsequent concurrent action of the respective legislatures of the member states.

B. Consist of one commissioner from each member state who shall be appointed by the executive head of the state human services administration with ultimate responsibility for the child welfare program. The appointed commissioner shall have the legal authority to vote on policy related matters governed by this compact binding the state.

1. Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

2. A majority of the member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

3. A representative shall not delegate a vote to another member state.

4. A representative may delegate voting authority to another person from their state for a specified meeting.

C. In addition to the commissioners of each member state, the Interstate Commission shall include persons who are members of interested organizations as defined in the bylaws or rules of the Interstate Commission. Such members shall be ex officio and shall not be entitled to vote on any matter before the Interstate Commission.

D. Establish an executive committee which shall have the authority to administer the day-to-day operations and administration of the Interstate Commission. It shall not have the power to engage in rulemaking.

ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

A. To promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this compact.

B. To provide for dispute resolution among member states.

C. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules or actions.

D. To enforce compliance with this compact or the bylaws or rules of the Interstate Commission pursuant to Article XII.

E. Collect standardized data concerning the interstate placement of children subject to this compact as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements.

F. To establish and maintain offices as may be necessary for the transacting of its business.

G. To purchase and maintain insurance and bonds.

H. To hire or contract for services of personnel or consultants as necessary to carry out its functions under the compact and establish personnel qualification policies, and rates of compensation.

I. To establish and appoint committees and officers including, but not limited to, an executive committee as required by Article X.

J. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose thereof.

K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.

L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.

M. To establish a budget and make expenditures.

N. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

O. To report annually to the legislatures, governors, the judiciary, and state advisory councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

P. To coordinate and provide education, training and public awareness regarding the interstate movement of children for officials involved in such activity.

Q. To maintain books and records in accordance with the bylaws of the Interstate Commission.

R. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

ARTICLE X. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. Bylaws

1. Within 12 months after the first Interstate Commission meeting, the Interstate Commission shall adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact.

2. The Interstate Commission's bylaws and rules shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

B. Meetings

1. The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states shall call additional meetings.

2. Public notice shall be given by the Interstate Commission of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

- a. relate solely to the Interstate Commission's internal personnel practices and procedures; or
- b. disclose matters specifically exempted from disclosure by federal law; or
- c. disclose financial or commercial information which is privileged, proprietary or confidential in nature; or
- d. involve accusing a person of a crime, or formally censuring a person; or
- e. disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy or physically endanger one or more persons; or
- f. disclose investigative records compiled for law enforcement purposes; or
- g. specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

3. For a meeting, or portion of a meeting, closed pursuant to this provision, the Interstate Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemption provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission or by court order.

4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or other electronic communication.

C. Officers and Staff

1. The Interstate Commission may, through its executive committee, appoint or retain a staff director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The staff director shall serve as secretary to the Interstate Commission, but shall not have a vote. The staff director may hire and supervise such other staff as may be authorized by the Interstate Commission.

2. The Interstate Commission shall elect, from among its members, a chairperson and a vice chairperson of the executive committee and other necessary officers, each of whom shall have such authority and duties as may be specified in the bylaws.

D. Qualified Immunity, Defense and Indemnification

1. The Interstate Commission's staff director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

a. The liability of the Interstate Commission's staff director and employees or Interstate Commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

b. The Interstate Commission shall defend the staff director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state shall defend the commissioner of a member state in a civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

c. To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE XI. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

B. Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or such other administrative procedure acts as the Interstate Commission deems appropriate consistent with due process requirements under the United States Constitution as now or hereafter interpreted by the U.S. Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the Interstate Commission.

C. When promulgating a rule, the Interstate Commission shall, at a minimum:

1. Publish the proposed rule's entire text stating the reason(s) for that proposed rule; and

2. Allow and invite any and all persons to submit written data, facts, opinions and arguments, which information shall be added to the record, and be made publicly available; and

3. Promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties.

D. Rules promulgated by the Interstate Commission shall have the force and effect of administrative rules and shall be binding in the compacting states to the extent and in the manner provided for in this compact.

E. Not later than 60 days after a rule is promulgated, an interested person may file a petition in the U.S. District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside.

F. If a majority of the legislatures of the member states rejects a rule, those states may by enactment of a statute or resolution in the same manner used to adopt the compact cause that such rule shall have no further force and effect in any member state.

G. The existing rules governing the operation of the Interstate Compact on the Placement of Children superseded by this act shall be null and void no less than 12, but no more than 24 months after the first meeting of the Interstate Commission created hereunder, as determined by the members during the first meeting.

H. Within the first 12 months of operation, the Interstate Commission shall promulgate rules addressing the following:

1. Transition rules

2. Forms and procedures

3. Time lines

4. Data collection and reporting

5. Rulemaking

6. Visitation

7. Progress reports/supervision

8. Sharing of information/confidentiality

9. Financing of the Interstate Commission

10. Mediation, arbitration and dispute resolution

11. Education, training and technical assistance

12. Enforcement

13. Coordination with other interstate compacts

I. Upon determination by a majority of the members of the Interstate Commission that an emergency exists:

1. The Interstate Commission may promulgate an emergency rule only if it is required to:

a. Protect the children covered by this compact from an imminent threat to their health, safety and well-being; or

b. Prevent loss of federal or state funds; or

c. Meet a deadline for the promulgation of an administrative rule required by federal law.

2. An emergency rule shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, but no later than 90 days after the effective date of the emergency rule.

3. An emergency rule shall be promulgated as provided for in the rules of the Interstate Commission.

ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

A. Oversight

1. The Interstate Commission shall oversee the administration and operation of the compact.

2. The executive, legislative and judicial branches of state government in each member state shall enforce this compact and the rules of the Interstate Commission and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The compact and its rules shall be binding in the compacting states to the extent and in the manner provided for in this compact.

3. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact.

4. The Interstate Commission shall be entitled to receive service of process in any action in which the validity of a compact provision or rule is the issue for which a judicial determination has been sought and shall have standing to intervene in any proceedings. Failure to provide service of process to the Interstate Commission shall render any judgment, order or other determination, however so captioned or classified, void as to the Interstate Commission, this compact, its bylaws or rules of the Interstate Commission.

B. Dispute Resolution

1. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and nonmember states.

2. The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among compacting states. The costs of such mediation or dispute resolution shall be the responsibility of the parties to the dispute.

C. Enforcement

1. If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, its bylaws or rules, the Interstate Commission may:

- a. Provide remedial training and specific technical assistance; or
- b. Provide written notice to the defaulting state and other member states, of the nature of the default and the means of curing the default. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default; or
- c. By majority vote of the members, initiate against a defaulting member state legal action in the United State District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal office, to enforce compliance with the provisions of the compact, its bylaws or rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees; or
- d. Avail itself of any other remedies available under state law or the regulation of official or professional conduct.

ARTICLE XIII. FINANCING OF THE COMMISSION

- A. The Interstate Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.
- B. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved by its members each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission which shall promulgate a rule binding upon all member states.
- C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.
- D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE XIV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

- A. Any state is eligible to become a member state.
- B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 states. The effective date shall be the later of July 1, 2007 or upon enactment of the compact into law by the 35th state. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The executive heads of the state human services administration with ultimate responsibility for the child welfare program of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a non-voting basis prior to adoption of the compact by all states.

C. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding on the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XV. WITHDRAWAL AND DISSOLUTION

A. Withdrawal

1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact specifically repealing the statute which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same. The effective date of withdrawal shall be the effective date of the repeal of the statute.

3. The withdrawing state shall immediately notify the president of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall then notify the other member states of the withdrawing state's intent to withdraw.

4. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the members of the Interstate Commission.

B. Dissolution of Compact

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the concurrent applicability of other interstate compacts to which the states are members.

ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Other Laws

1. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

B. Binding Effect of the Compact

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

2. All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

3. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

ARTICLE XVIII. INDIAN TRIBES

Notwithstanding any other provision in this compact, the Interstate Commission may promulgate guidelines to permit Indian tribes to utilize the compact to achieve any or all of the purposes of the compact as specified in Article I. The Interstate Commission shall make reasonable efforts to consult with Indian tribes in promulgating guidelines to reflect the diverse circumstances of the various Indian tribes.

EFFECTIVE DATE. This section is effective upon legislative enactment of the compact into law by no less than 35 states. The commissioner of human services shall inform the Revisor of Statutes when this occurs.

Sec. 24. Minnesota Statutes 2006, section 260C.001, subdivision 2, is amended to read:

Subd. 2. **Child in need of protection services.** (a) The paramount consideration in all 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 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 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 and the responsible social services agency; or

(ii) by court order pursuant to section 260C.151, subdivision 6; 206C.178; or 260C.201;

(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, ~~when removal from the child's own family is necessary and in the child's best interests,~~

(6) to ~~secure for~~ ensure that when the child is removed, the ~~child custody,~~ 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 licensed under chapter 245A.

Sec. 25. Minnesota Statutes 2006, section 260C.007, subdivision 5, is amended to read:

Subd. 5. **Child abuse.** "Child abuse" means an act that involves a minor victim ~~and~~ that constitutes a violation of section 609.221, 609.222, 609.223, 609.224, 609.2242, 609.322, 609.324, 609.342, 609.343, 609.344, 609.345, 609.377, 609.378, 617.246, or that is physical or sexual abuse as defined in section 626.556, subdivision 2, or an act committed in another state that involves a minor victim and would constitute a violation of one of these sections if committed in this state.

Sec. 26. Minnesota Statutes 2006, section 260C.007, subdivision 6, is amended to read:

Subd. 6. **Child in need of protection or services.** "Child in need of protection or services" means a child who is in need of protection or services because the child:

(1) is abandoned or without parent, guardian, or custodian;

(2)(i) has been a victim of physical or sexual abuse as defined in section 626.556, subdivision 2, (ii) resides with or has resided with a victim of child abuse as defined in subdivision 5 or domestic child abuse as defined in subdivision 5, 13, (iii) resides with or would reside with a perpetrator of domestic child abuse as defined in subdivision 13 or child abuse as defined in subdivision 5, or (iv) is a victim of emotional maltreatment as defined in subdivision 8;

(3) is without necessary food, clothing, shelter, education, or other required care for the child's physical or mental health or morals because the child's parent, guardian, or custodian is unable or unwilling to provide that care;

(4) is without the special care made necessary by a physical, mental, or emotional condition because the child's parent, guardian, or custodian is unable or unwilling to provide that care, ~~including a child in voluntary placement due solely to the child's developmental disability or emotional disturbance;~~

(5) is medically neglected, which includes, but is not limited to, the withholding of medically indicated treatment from a disabled infant with a life-threatening condition. The term "withholding of medically indicated treatment" means the failure to respond to the infant's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all conditions, except that the term does not include the failure to provide treatment other than appropriate nutrition, hydration, or medication to an infant when, in the treating physician's or physicians' reasonable medical judgment:

- (i) the infant is chronically and irreversibly comatose;
 - (ii) the provision of the treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be futile in terms of the survival of the infant; or
 - (iii) the provision of the treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane;
- (6) is one whose parent, guardian, or other custodian for good cause desires to be relieved of the child's care and custody, including a child in placement according to who entered foster care under a voluntary release by placement agreement between the parent and the responsible social services agency under section 260C.212, subdivision 8;
- (7) has been placed for adoption or care in violation of law;
- (8) is without proper parental care because of the emotional, mental, or physical disability, or state of immaturity of the child's parent, guardian, or other custodian;
- (9) is one whose behavior, condition, or environment is such as to be injurious or dangerous to the child or others. An injurious or dangerous environment may include, but is not limited to, the exposure of a child to criminal activity in the child's home;
- (10) is experiencing growth delays, which may be referred to as failure to thrive, that have been diagnosed by a physician and are due to parental neglect;
- (11) has engaged in prostitution as defined in section 609.321, subdivision 9;
- (12) has committed a delinquent act or a juvenile petty offense before becoming ten years old;
- (13) is a runaway;
- (14) is a habitual truant; or
- (15) has been found incompetent to proceed or has been found not guilty by reason of mental illness or mental deficiency in connection with a delinquency proceeding, a certification under section 260B.125, an extended jurisdiction juvenile prosecution, or a proceeding involving a juvenile petty offense.

Sec. 27. Minnesota Statutes 2006, section 260C.007, subdivision 13, is amended to read:

Subd. 13. **Domestic child abuse.** "Domestic child abuse" means:

- (1) any physical injury to a minor family or household member inflicted by an adult family or household member other than by accidental means; ~~or~~
- (2) subjection of a minor family or household member by an adult family or household member to any act which constitutes a violation of sections 609.321 to 609.324, 609.342, 609.343, 609.344, 609.345, or 617.246; or
- (3) physical or sexual abuse as defined in section 626.556, subdivision 2.

Sec. 28. Minnesota Statutes 2006, section 260C.101, subdivision 2, is amended to read:

Subd. 2. **Jurisdiction over other matters relating to children.** Except as provided in clause (d), the juvenile court has original and exclusive jurisdiction in proceedings concerning:

(a) The termination of parental rights to a child in accordance with the provisions of sections 260C.301 to 260C.328.

(b) 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.

(c) Judicial consent to the marriage of a child when required by law.

(d) 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 all adoption matters.

(e) The review of the ~~foster care status~~ placement of a child who ~~has been placed in a residential facility, as defined in section 260C.212, subdivision 1, foster care~~ pursuant to a voluntary ~~release by~~ placement agreement between the child's parent or parents and the responsible social services agency under section 260C.212, subdivision 8.

(f) The review of voluntary foster care placement of a child for treatment under chapter 260D according to the review requirements of that chapter.

Sec. 29. Minnesota Statutes 2006, section 260C.141, subdivision 2, is amended to read:

Subd. 2. **Review of foster care status.** ~~Except for a child in foster care due solely to the child's developmental disability or emotional disturbance,~~ When a child continues in voluntary ~~placement~~ foster care according to section 260C.212, subdivision 8, a petition shall be filed alleging the child to be in need of protection or services or seeking termination of parental rights or other permanent placement of the child away from the parent within 90 days of the date of the voluntary placement agreement. The petition shall state the reasons why the child is in ~~placement~~ foster care, the progress on the out-of-home placement plan required under section 260C.212, subdivision 1, and the statutory basis for the petition under section 260C.007, subdivision 6, 260C.201, subdivision 11, or 260C.301.

(1) In the case of a petition alleging the child to be in need of protection or services filed under this paragraph, if all parties agree and the court finds it is in the best interests of the child, the court may find the petition states a prima facie case that:

(i) the child's needs are being met;

(ii) the placement of the child in foster care is in the best interests of the child;

(iii) reasonable efforts to reunify the child and the parent or guardian are being made; and

(iv) the child will be returned home in the next three months.

(2) If the court makes findings under paragraph (1), the court shall approve the voluntary arrangement and continue the matter for up to three more months to ensure the child returns to the parents' home. The responsible social services agency shall:

(i) report to the court when the child returns home and the progress made by the parent on the out-of-home placement plan required under section 260C.212, in which case the court shall dismiss jurisdiction;

(ii) report to the court that the child has not returned home, in which case the matter shall be returned to the court for further proceedings under section 260C.163; or

(iii) if any party does not agree to continue the matter under this paragraph and paragraph (1), the matter shall proceed under section 260C.163.

Sec. 30. Minnesota Statutes 2007 Supplement, 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, 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.

~~(c) Except as otherwise provided in this paragraph, the court shall exclude the general public from hearings under this chapter and shall admit only those persons who, in the discretion of the court, have a direct interest in the case or in the work of the court. Absent exceptional circumstances, hearings under this chapter 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.

(e) In any permanency hearing, including the transition of a child from foster care to independent living, the court shall ensure that any consult with the child is in an age-appropriate manner.

Sec. 31. Minnesota Statutes 2006, section 260C.171, subdivision 2, is amended to read:

Subd. 2. **Public inspection of records.** (a) ~~The following records from proceedings or portions of proceedings involving a child in need of protection or services that, permanency, or termination of parental rights are open accessible to the public as authorized by Supreme Court order and court rules are accessible to the public unless the court determines that access should be restricted because of the intensely personal nature of the information: the Minnesota Rules of Juvenile Protection Procedure.~~

~~(1) the summons and petition;~~

~~(2) affidavits of publication and service;~~

~~(3) certificates of representation;~~

~~(4) court orders;~~

~~(5) hearing and trial notices, witness lists, and subpoenas;~~

~~(6) motions and legal memoranda;~~

~~(7) exhibits introduced at hearings or trial that are not inaccessible under paragraph (b);~~

~~(8) birth records; and~~

~~(9) all other documents not listed as inaccessible to the public under paragraph (b).~~

~~(b) The following records are not accessible to the public under paragraph (a):~~

~~(1) written, audiotaped, or videotaped information from the social services agency, except to the extent the information appears in the petition, court orders, or other documents that are accessible under paragraph (a);~~

~~(2) child protection intake or screening notes;~~

~~(3) documents identifying reporters of maltreatment, unless the names and other identifying information are redacted;~~

~~(4) guardian ad litem reports;~~

~~(5) victim statements and addresses and telephone numbers;~~

~~(6) documents identifying nonparty witnesses under the age of 18, unless the names and other identifying information are redacted;~~

~~(7) transcripts of testimony taken during closed hearing;~~

~~(8) fingerprinting materials;~~

~~(9) psychological, psychiatric, and chemical dependency evaluations;~~

~~(10) presentence evaluations of juveniles and probation reports;~~

~~(11) medical records and test results;~~

~~(12) reports issued by sexual predator programs;~~

~~(13) diversion records of juveniles;~~

~~(14) any document which the court, upon its own motion or upon motion of a party, orders inaccessible to serve the best interests of the child; and~~

~~(15) any other records that are not accessible to the public under rules developed by the courts.~~

~~In addition, records that are accessible to the public under paragraph (a) become inaccessible to the public if one year has elapsed since either the proceeding was dismissed or the court's jurisdiction over the matter was terminated.~~

~~(e) Except as otherwise provided by this section, none of the records of the juvenile court and (b) None of the records relating to an appeal from a nonpublic juvenile court proceeding, except the written appellate opinion, shall be open to public inspection or their contents disclosed except by order of a court.~~

~~(d)~~ (c) The records of juvenile probation officers are records of the court for the purposes of this subdivision. This subdivision applies to all proceedings under this chapter, including appeals from orders of the juvenile court. The court shall maintain the confidentiality of adoption files and records in accordance with the provisions of laws relating to adoptions. In juvenile court proceedings any report or social history furnished to the court shall be open to inspection by the attorneys of record and the guardian ad litem a reasonable time before it is used in connection with any proceeding before the court.

~~(e) When a judge of a juvenile court, or duly authorized agent of the court, determines under a proceeding under this chapter that a child has violated a state or local law, ordinance, or regulation pertaining to the operation of a motor vehicle on streets and highways, except parking violations, the judge or agent shall immediately report the violation to the commissioner of public safety. The report must be made on a form provided by the Department of Public Safety and must contain the information required under section 169.95.~~

Sec. 32. Minnesota Statutes 2006, 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 (a) or (b)(2), 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, not return for a court hearing, run away from the child's parent, guardian, or custodian or otherwise not remain in the care or control of the person to whose lawful custody the child is released, 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; not return for a court hearing; run away from the child's parent, guardian, or custodian or otherwise not remain in the care or control of the person to whose lawful custody the child is released; 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)~~ (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 ~~(e)~~ (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.

~~(d)~~ (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.

~~(e)~~ (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 section 260C.201, subdivision 11, paragraph (e), clause (1), or a similar law of another jurisdiction; or

(5) the provision of services or further services for the purpose of reunification is futile and therefore unreasonable.

~~(f)~~ (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, the court shall schedule a permanency hearing within 30 days of the filing of the petition.

~~(g)~~ (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.

~~(h)~~ (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.

~~(i)~~ (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 due solely to the child's own behavior or a child is placed with a previously noncustodial parent who is not 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 efforts to place the siblings together. If any sibling is not placed with another sibling or siblings, the agency must develop a plan for visitation among the siblings as required under section 260C.212, subdivision 1.

Sec. 33. Minnesota Statutes 2006, section 260C.205, is amended to read:

260C.205 DISPOSITIONS; VOLUNTARY FOSTER CARE PLACEMENTS FOR TREATMENT.

~~Unless the court disposes of the petition under section 260C.141, subdivision 2, Upon a petition for review of the foster care status of a~~ by a parent or guardian under section 260C.141, subdivision 1, regarding a child in voluntary foster care for treatment under chapter 260D, the court may:

~~(a) find that the child's needs are not being met, in which case the court shall order the social services agency or the parents to take whatever action is necessary and feasible to meet the child's needs, including, when appropriate, the provision by the social services agency of services to the parents which would enable the child to live at home; and order a disposition under section 260C.201.~~

~~(b) Find that the child has been abandoned by parents financially or emotionally, or that the developmentally disabled child does not require out of home care because of the disabling condition, in which case the court shall order the social services agency to file an appropriate petition pursuant to section 260C.141, subdivision 1, or 260C.307.~~

~~(c) When a child is in placement due solely to the child's developmental disability or emotional disturbance and the court finds that there are compelling reasons which permit the court to approve the continued voluntary placement of the child and retain jurisdiction to conduct reviews as required under section 260C.141, subdivision 2, the court shall give the parent notice by registered United States mail of the review requirements of section 260C.141, subdivision 2, in the event the child continues in placement 12 months or longer.~~

~~Nothing in this section shall be construed to prohibit bringing a petition pursuant to section 260C.141, subdivision 1 or 4, sooner than required by court order pursuant to this section.~~

Sec. 34. Minnesota Statutes 2007 Supplement, section 260C.209, subdivision 1, is amended to read:

Subdivision 1. **Subjects.** The responsible social services agency ~~must initiate a background study to be completed by the commissioner under chapter 245C~~ may have access to the criminal history and history of child and adult maltreatment on the following individuals:

(1) a noncustodial parent or nonadjudicated parent who is being assessed for purposes of providing day-to-day care of a child temporarily or permanently under section 260C.212, subdivision 4, and any member of the parent's household who is over the age of 13 when there is a reasonable cause to believe that the parent or household member over age 13 has a criminal history or a history of maltreatment of a child or vulnerable adult which would endanger the child's health, safety, or welfare;

(2) an individual whose suitability for relative placement under section 260C.212, subdivision 5, is being determined and any member of the relative's household who is over the age of 13 when:

(i) the relative must be licensed for foster care; or

(ii) the background study is required under section 259.53, subdivision 2; or

(iii) the agency or the commissioner has reasonable cause to believe the relative or household member over the age of 13 has a criminal history which would not make transfer of permanent legal and physical custody to the relative under section 260C.201, subdivision 11, in the child's best interest; and

(3) a parent, following an out-of-home placement, when the responsible social services agency has reasonable cause to believe that the parent has been convicted of a crime directly related to the parent's capacity to maintain the child's health, safety, or welfare or the parent is the subject of an open investigation of, or has been the subject of a substantiated allegation of, child or vulnerable-adult maltreatment within the past ten years.

"Reasonable cause" means that the agency has received information or a report from the subject or a third person that creates an articulable suspicion that the individual has a history that may pose a risk to the health, safety, or welfare of the child. The information or report must be specific to the potential subject of the background check and shall not be based on the race, religion, ethnic background, age, class, or lifestyle of the potential subject.

Sec. 35. Minnesota Statutes 2007 Supplement, section 260C.209, subdivision 2, is amended to read:

Subd. 2. **General procedures.** (a) When ~~initiating a background check~~ accessing information under subdivision 1, the agency shall require the individual being assessed to provide sufficient information to ensure an accurate assessment under this section, including:

(1) the individual's first, middle, and last name and all other names by which the individual has been known;

(2) home address, zip code, city, county, and state of residence for the past five years;

(3) sex;

(4) date of birth; and

(5) driver's license number or state identification number.

(b) When notified by the ~~commissioner or the~~ responsible social services agency that it is ~~conducting an assessment under this section~~ accessing information under subdivision 1, the Bureau of Criminal Apprehension, commissioners of health and human services, law enforcement, and county agencies must provide ~~the commissioner or the~~ responsible social services agency or county attorney with the following information on the individual being assessed: criminal history data, local law enforcement data about the household, reports about the maltreatment of adults substantiated under section 626.557, and reports of maltreatment of minors substantiated under section 626.556.

Sec. 36. Minnesota Statutes 2007 Supplement, section 260C.209, is amended by adding a subdivision to read:

Subd. 5. **Assessment for emergency relative placement.** The responsible social services agency may obtain household members' criminal history and the history of maltreatment of a child or adult and use the history to assess whether putting the child in the household would endanger the child's health, safety, or welfare and to assess the suitability of a relative prior to an emergency placement. This assessment does not substitute for the background study required under chapter 245C and does not supersede requirements related to emergency placement under section 245A.035.

Sec. 37. Minnesota Statutes 2007 Supplement, 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 ~~a residential facility foster care~~ by court order or ~~by the~~ a voluntary release of the child by placement agreement between the responsible social services agency and the child's parent or parents pursuant to subdivision 8 or chapter 260D.

~~For purposes of this section, a residential facility means any group home, family foster home or other publicly supported out-of-home residential facility, including any out-of-home residential facility under contract with the state, county or other political subdivision, or any agency thereof, to provide those services or foster care as defined in section 260C.007, subdivision 18.~~

(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 facility, and, where appropriate, the child. For a child in ~~placement due solely or in part to the child's emotional disturbance~~ 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 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, 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 ~~the residential facility~~ foster care, and whether visitation is consistent with the best interest of the child, during the period the child is in ~~the residential facility~~ 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) the health and educational records of the child including the most recent information available regarding:

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

(ii) the child's grade level performance;

(iii) the child's school record;

(iv) assurances that 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;

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

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

(vii) the child's medications; and

(viii) any other relevant health and education information;

(8) 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;

(v) planning for housing;

(vi) social and recreational skills; and

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

(9) for a child in ~~placement due solely or in part to the child's emotional disturbance~~ 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. 38. Minnesota Statutes 2007 Supplement, section 260C.212, subdivision 4, is amended to read:

Subd. 4. **Responsible social service agency's duties for children in placement.** (a) When a child is in ~~placement~~ foster care, the responsible social services agency shall make diligent efforts to identify, locate, and, where appropriate, offer services to both parents of the child.

(1) The responsible social services agency shall assess whether a noncustodial or nonadjudicated parent is willing and capable of providing for the day-to-day care of the child temporarily or permanently. An assessment under this clause may include, but is not limited to, obtaining information under section 260C.209. If after assessment, the responsible social services agency determines that a noncustodial or nonadjudicated parent is willing and capable of providing day-to-day care of the child, the responsible social services agency may seek authority from the custodial parent or the court to have that parent assume day-to-day care of the child. If a parent is not an adjudicated parent, the responsible social services agency shall require the nonadjudicated parent to cooperate with paternity establishment procedures as part of the case plan.

(2) If, after assessment, the responsible social services agency determines that the child cannot be in the day-to-day care of either parent, the agency shall:

(i) prepare an out-of-home placement plan addressing the conditions that each parent must meet before the child can be in that parent's day-to-day care; and

(ii) provide a parent who is the subject of a background study under section 260C.209 15 days' notice that it intends to use the study to recommend against putting the child with that parent, as well as the notice provided in section 260C.209, subdivision 4, and the court shall afford the parent an opportunity to be heard concerning the study.

The results of a background study of a noncustodial parent shall not be used by the agency to determine that the parent is incapable of providing day-to-day care of the child unless the agency reasonably believes that placement of the child into the home of that parent would endanger the child's health, safety, or welfare.

(3) If, after the provision of services following an out-of-home placement plan under this section, the child cannot return to the care of the parent from whom the child was removed or who had legal custody at the time the child was placed in foster care, the agency may petition on behalf of a noncustodial parent to establish legal custody with that parent under section 260C.201, subdivision 11. If paternity has not already been established, it may be established in the same proceeding in the manner provided for under chapter 257.

(4) The responsible social services agency may be relieved of the requirement to locate and offer services to both parents by the juvenile court upon a finding of good cause after the filing of a petition under section 260C.141.

(b) The responsible social services agency shall give notice to the parent ~~or parents~~ or guardian of each child in a ~~residential facility foster care~~, other than a child in ~~placement due solely to that child's developmental disability or emotional disturbance~~ voluntary foster care for treatment under chapter 260D, of the following information:

(1) that ~~residential care of the child~~ child's placement in foster care may result in termination of parental rights or an order permanently placing the child out of the custody of the parent, but only after notice and a hearing as required under chapter 260C and the juvenile court rules;

(2) time limits on the length of placement and of reunification services, including the date on which the child is expected to be returned to and safely maintained in the home of the parent or parents or placed for adoption or otherwise permanently removed from the care of the parent by court order;

(3) the nature of the services available to the parent;

(4) the consequences to the parent and the child if the parent fails or is unable to use services to correct the circumstances that led to the child's placement;

(5) the first consideration for placement with relatives;

(6) the benefit to the child in getting the child out of ~~residential~~ foster care as soon as possible, preferably by returning the child home, but if that is not possible, through a permanent legal placement of the child away from the parent;

(7) when safe for the child, the benefits to the child and the parent of maintaining visitation with the child as soon as possible in the course of the case and, in any event, according to the visitation plan under this section; and

(8) the financial responsibilities and obligations, if any, of the parent or parents for the support of the child during the period the child is in ~~the residential facility~~ foster care.

(c) The responsible social services agency shall inform a parent considering voluntary placement of a child ~~who is not developmentally disabled or emotionally disturbed~~ under subdivision 8, of the following information:

(1) the parent and the child each has a right to separate legal counsel before signing a voluntary placement agreement, but not to counsel appointed at public expense;

(2) the parent is not required to agree to the voluntary placement, and a parent who enters a voluntary placement agreement may at any time request that the agency return the child. If the parent so requests, the child must be returned within 24 hours of the receipt of the request;

(3) evidence gathered during the time the child is voluntarily placed may be used at a later time as the basis for a petition alleging that the child is in need of protection or services or as the basis for a petition seeking termination of parental rights or other permanent placement of the child away from the parent;

(4) if the responsible social services agency files a petition alleging that the child is in need of protection or services or a petition seeking the termination of parental rights or other permanent placement of the child away from the parent, the parent would have the right to appointment of separate legal counsel and the child would have a right to the appointment of counsel and a guardian ad litem as provided by law, and that counsel will be appointed at public expense if they are unable to afford counsel; and

(5) the timelines and procedures for review of voluntary placements under subdivision 3, and the effect the time spent in voluntary placement on the scheduling of a permanent placement determination hearing under section 260C.201, subdivision 11.

(d) When an agency accepts a child for placement, the agency shall determine whether the child has had a physical examination by or under the direction of a licensed physician within the 12 months immediately preceding the date when the child came into the agency's care. If there is documentation that the child has had an examination within the last 12 months, the agency is responsible for seeing that the child has another physical examination within one year of the documented examination and annually in subsequent years. If the agency determines that the child has not had a physical examination within the 12 months immediately preceding placement, the agency shall ensure that the child has an examination within 30 days of coming into the agency's care and once a year in subsequent years.

(e) Whether under state guardianship or not, if a child leaves foster care by reason of having attained the age of majority under state law, the child must be given at no cost a copy of the child's ~~health~~ social and medical history, as defined in section 259.43, and education report.

Sec. 39. Minnesota Statutes 2006, section 260C.212, is amended by adding a subdivision to read:

Subd. 4a. **Monthly caseworker visits with children in foster care.** (a) Every child in foster care or on a trial home visit shall be visited by the child's caseworker on a monthly basis, with the majority of visits occurring in the child's residence. For the purposes of this section, the following definitions apply:

(1) "visit" is defined as a face-to-face contact between a child and the child's caseworker;

(2) "visited on a monthly basis" is defined as at least one visit per calendar month;

(3) "the child's caseworker" is defined as the person who has responsibility for managing the child's foster care placement case as assigned by the responsible social service agency; and

(4) "the child's residence" is defined as the home where the child is residing, and can include the foster home, child care institution, or the home from which the child was removed if the child is on a trial home visit.

(b) Caseworker visits shall be of sufficient substance and duration to address issues pertinent to case planning and service delivery to ensure the safety, permanency, and well-being of the child.

Sec. 40. Minnesota Statutes 2006, 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 ~~a residential facility~~ foster care no later than 180 days after the initial placement of the child in ~~a residential facility~~ 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 social services agency responsible for the placement may bring a petition as provided in section 260C.141, subdivision 2, to the court for review of the foster care to determine if placement is in the best interests of the child. This petition must be brought to the court in order for a court determination to be made regarding the best interests of the child within the applicable six months and is not in lieu of the requirements contained in subdivision 3 or 4. 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, or section 260C.141, subdivision 2, or 2a, clause (2); or 260C.317 shall satisfy the requirement for an administrative the review so long as the other requirements of this section are met.~~

~~(b) (c) At the review required under paragraph (a), the reviewing administrative body~~ 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) where appropriate, the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in a residential facility foster care;~~
- ~~(5) where appropriate, 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 review required under section 260C.201, subdivision 11, paragraph (d), clause (3), item (iii); or 260C.317, subdivision 3, clause (3), the court shall review the independent living plan required under subdivision 1, paragraph (c), clause (8), 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 Minnesota Rules, part 9560.0060, 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 256.245. 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) The court shall make findings regarding 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.

Sec. 41. Minnesota Statutes 2006, section 260C.212, subdivision 8, is amended to read:

Subd. 8. **Review of Voluntary placements foster care; required court review.** ~~Except for a child in placement due solely to the child's developmental disability or emotional disturbance, if~~ When the responsible social services agency and the child's parent or guardian agree that the child's safety, health, and best interests require that the child be in foster care, the agency and the parent or guardian may enter into a voluntary agreement for the placement of the child in foster care. The voluntary agreement must be in writing and in a form approved by the commissioner. When the child has been placed in a residential facility foster care pursuant to a voluntary release by foster care agreement between the agency and the parent or parents, under this subdivision and the child is not returned home within 90 days after initial placement in the residential facility foster care, the social services agency responsible for the child's placement in foster care shall:

- (1) return the child to the home of the parent or parents; or
- (2) file a petition according to section 260C.141, subdivision 1 or 2, which may:
 - (i) ask the court to review the child's placement in foster care and approve it as continued voluntary foster care for up to an additional 90 days;
 - (ii) ask the court to order continued ~~out-of-home placement~~ foster care according to sections 260C.178 and 260C.201; or
 - (iii) ask the court to terminate parental rights under section 260C.301.

The out-of-home placement plan must be updated and filed along with the petition.

If the court approves ~~continued out of home placement~~ continuing the child in foster care for up to 90 more days on a voluntary basis, at the end of the court-approved 90-day period, the child must be returned to the parent's home. If the child is not returned home, the responsible social services agency must proceed on the petition filed alleging the child in need of protection or services or the petition for termination of parental rights or other permanent placement of the child away from the parent. The court must find a statutory basis to order the placement of the child under section 260C.178; 260C.201; or 260C.317.

Sec. 42. Minnesota Statutes 2006, section 260C.325, subdivision 1, is amended to read:

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

~~(a)~~ (1) the commissioner of human services; ~~or~~

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

~~(c)~~ (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.

Sec. 43. Minnesota Statutes 2006, section 260C.325, subdivision 3, is amended to read:

Subd. 3. **Both parents deceased.** (a) If upon petition to the juvenile court by a reputable person, including but not limited to an 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:

~~(a)~~ (1) the commissioner of human services;

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

~~(c)~~ (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 if there is no individual who is willing and capable of assuming the appropriate duties and responsibilities to the child.

Sec. 44. **[260D.001] CHILD IN VOLUNTARY FOSTER CARE FOR TREATMENT.**

(a) Sections 260D.001 to 260D.301, may be cited as the "child in voluntary foster care for treatment" provisions of the Juvenile Court Act.

(b) The juvenile court has original and exclusive jurisdiction over a child in voluntary foster care for treatment upon the filing of a report or petition required under this chapter. All obligations of the agency to a child and family in foster care contained in chapter 260C not inconsistent with this chapter are also obligations of the agency with regard to a child in foster care for treatment under this chapter.

(c) This chapter shall be construed consistently with the mission of the children's mental health service system as set out in section 245.487, subdivision 3, and the duties of an agency under section 256B.092, and Minnesota Rules, parts 9525.0004 to 9525.0016, to meet the needs of a child with a developmental disability or related condition. This chapter:

(1) establishes voluntary foster care through a voluntary foster care agreement as the means for an agency and a parent to provide needed treatment when the child must be in foster care to receive necessary treatment for an emotional disturbance or developmental disability or related condition;

(2) establishes court review requirements for a child in voluntary foster care for treatment due to emotional disturbance or developmental disability or a related condition;

(3) establishes the ongoing responsibility of the parent as legal custodian to visit the child, to plan together with the agency for the child's treatment needs, to be available and accessible to the agency to make treatment decisions, and to obtain necessary medical, dental, and other care for the child; and

(4) applies to voluntary foster care when the child's parent and the agency agree that the child's treatment needs require foster care either:

(i) due to a level of care determination by the agency's screening team informed by the diagnostic and functional assessment under section 245.4885; or

(ii) due to a determination regarding the level of services needed by the responsible social services' screening team under section 256B.092, and Minnesota Rules, parts 9525.0004 to 9525.0016.

(d) This chapter does not apply when there is a current determination under section 626.556 that the child requires child protective services or when the child is in foster care for any reason other than treatment for the child's emotional disturbance or developmental disability or related condition. When there is a determination under section 626.556 that the child requires child protective services based on an assessment that there are safety and risk issues for the child that have not been mitigated through the parent's engagement in services or otherwise, or when the child is in foster care for any reason other than the child's emotional disturbance or developmental disability or related condition, the provisions of chapter 260C apply.

(e) The paramount consideration in all proceedings concerning a child in voluntary foster care for treatment is the safety, health, and the best interests of the child. The purpose of this chapter is:

(1) to ensure a child with a disability is provided the services necessary to treat or ameliorate the symptoms of the child's disability;

(2) to preserve and strengthen the child's family ties whenever possible and in the child's best interests, approving the child's placement away from the child's parents only when the child's need for care or treatment requires it and the child cannot be maintained in the home of the parent; and

(3) to ensure the child's parent retains legal custody of the child and associated decision-making authority unless the child's parent willfully fails or is unable to make decisions that meet the child's safety, health, and best interests. The court may not find that the parent willfully fails or is unable to make decisions that meet the child's needs solely because the parent disagrees with the agency's choice of foster care facility, unless the agency files a petition under chapter 260C, and establishes by clear and convincing evidence that the child is in need of protection or services.

(f) The legal parent-child relationship shall be supported under this chapter by maintaining the parent's legal authority and responsibility for ongoing planning for the child and by the agency's assisting the parent, where necessary, to exercise the parent's ongoing right and obligation to visit or to have reasonable contact with the child. Ongoing planning means:

(1) actively participating in the planning and provision of educational services, medical, and dental care for the child;

(2) actively planning and participating with the agency and the foster care facility for the child's treatment needs; and

(3) planning to meet the child's need for safety, stability, and permanency, and the child's need to stay connected to the child's family and community.

(g) The provisions of section 260.012 to ensure placement prevention, family reunification, and all active and reasonable effort requirements of that section apply. This chapter shall be construed consistently with the requirements of the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, et.al., and the provisions of the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835.

Sec. 45. **[260D.005] DEFINITIONS.**

Subdivision 1. **Definitions.** The definitions in this section supplement the definitions in section 260C.007. The definitions in section 260C.007 apply to this chapter and have the same meaning for purposes of this chapter as for chapter 260C.

Subd. 2. **Agency.** "Agency" means the responsible social services agency or a licensed child-placing agency.

Subd. 3. **Case plan.** "Case plan" means any plan for the delivery of services to a child and parent, or when reunification is not required, the child alone, that is developed according to the requirements of sections 245.4871, subdivision 19 or 21; 245.492, subdivision 16; 256B.092; 260C.212, subdivision 1; 626.556, subdivision 10; and Minnesota Rules, parts 9525.0004 to 9525.0016.

Subd. 4. **Child.** "Child" means an individual under 18 years of age.

Subd. 5. **Child in voluntary foster care for treatment.** "Child in voluntary foster care for treatment" means a child who is emotionally disturbed or developmentally disabled or has a related condition and is in foster care under a voluntary foster care agreement between the child's parent and the agency due to concurrence between the agency and the parent that the child's level of care requires placement in foster care either:

(1) due to a determination by the agency's screening team based on its review of the diagnostic and functional assessment under section 245.4885; or

(2) due to a determination by the agency's screening team under section 256B.092 and Minnesota Rules, parts 9525.0004 to 9525.0016.

A child is not in voluntary foster care for treatment under this chapter when there is a current determination under section 626.556 that the child requires child protective services or when the child is in foster care for any reason other than the child's emotional or developmental disability or related condition.

Subd. 6. **Compelling reasons.** "Compelling reasons" has the same meaning given in section 260C.007, subdivision 8. The agency may determine compelling reasons when the child is in foster care for treatment and no grounds to terminate parental rights exist because the child must be in placement to access treatment, the child's individual treatment needs cannot be met in the child's home or through community-based care, and the parent continues to be responsible for planning together with the agency for the child's needs and maintains appropriate contact with the child.

Subd. 7. **Court.** "Court" means juvenile court unless otherwise specified in this section.

Subd. 8. **Development disability.** "Developmental disability" means developmental disability as defined in United States Code, title 42, section 6001(8).

Subd. 9. **Emotionally disturbed or emotional disturbance.** "Emotionally disturbed" or "emotional disturbance" means emotional disturbance as described in section 245.4871, subdivision 15.

Subd. 10. **Foster care.** "Foster care" means 24-hour substitute care for children placed away from their parents and for whom an agency has placement and care responsibility. Foster care includes, but is not limited to, placement in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities not excluded in this subdivision, child care institutions, and preadoptive homes. A child is in foster care under this definition, regardless of whether the facility is licensed and payments are made for the cost of care. Nothing in this definition creates any authority to place a child in a home or facility that is required to be licensed that is not licensed. Foster care does not include placement in any of the following facilities: hospitals, inpatient chemical dependency treatment facilities, facilities that are primarily for delinquent children, any corrections facility or program within a particular corrections facility not meeting requirements for Title IV-E facilities as determined by the commissioner, facilities to which a child is committed under the provision of chapter 253B, forestry camps, or jails.

Subd. 11. **Legal authority to place the child.** "Legal authority to place the child" means the agency has legal responsibility for the care and control of the child while the child is in foster care. The agency may acquire legal authority to place a child through a voluntary placement agreement between the agency and the child's parent under this chapter. Legal authority to place the child does not mean the agency has authority to make major life decisions regarding the child, including major medical decisions. A parent with legal custody of the child continues to have legal authority to make major life decisions regarding the child, including major medical decisions.

Subd. 12. **Minor.** "Minor" means an individual under 18 years of age.

Subd. 13. **Parent.** "Parent" means the birth or adoptive parent of a minor. Parent also means the child's legal guardian or any individual who has legal authority to make decisions and plans for the child. For an Indian child, parent includes any Indian person who has adopted a child by tribal law or custom, as provided in section 260.755, subdivision 14.

Subd. 14. **Reasonable efforts to finalize a permanent plan for the child.** "Reasonable efforts to finalize a permanent plan for the child" has the same meaning under this chapter as provided in section 260.012, paragraph (e).

Sec. 46. **[260D.101] VOLUNTARY FOSTER CARE.**

Subdivision 1. **Voluntary foster care.** When the agency's screening team, based upon the diagnostic and functional assessment under section 245.4885 or 256B.092, subdivision 7, determines the child's need for treatment due to emotional disturbance or developmental disability or related condition requires foster care placement of the child, a voluntary foster care agreement between the child's parent and the agency gives the agency legal authority to place the child in foster care.

Subd. 2. **Voluntary foster care agreement.** A voluntary foster care agreement shall be used to provide the agency the legal authority to place a child in foster care for treatment due to the child's disability. The agreement must be in writing and signed by both the child's parent and the agency. The agreement must be in a form approved by the commissioner of human services, and shall contain notice to parents of the consequences to the parent and to the child of being in voluntary foster care.

Sec. 47. [260D.102] REQUIRED INFORMATION FOR A CHILD IN VOLUNTARY FOSTER CARE FOR TREATMENT.

An agency with authority to place a child in voluntary foster care for treatment due to emotional disturbance or developmental disability or related condition, shall inform the child, age 12 or older, of the following:

(1) the child has the right to be consulted in the preparation of the out-of-home placement plan required under section 260C.212, subdivision 1, and the administrative review required under section 260C.212, subdivision 7;

(2) the child has the right to visit the parent and the right to visit the child's siblings as determined safe and appropriate by the parent and the agency;

(3) if the child disagrees with the foster care facility or services provided under the out-of-home placement plan required under section 260C.212, subdivision 1, the agency shall include information about the nature of the child's disagreement and, to the extent possible, the agency's understanding of the basis of the child's disagreement in the information provided to the court in the report required under section 260D.105; and

(4) the child has the rights established under Minnesota Rules, part 2960.0050, as a resident of a facility licensed by the state.

Sec. 48. [260D.103] ADMINISTRATIVE REVIEW OF CHILD IN VOLUNTARY FOSTER CARE FOR TREATMENT.

The administrative reviews required under section 260C.212, subdivision 7, must be conducted for a child in voluntary foster care for treatment, except that the initial administrative review must take place prior to the submission of the report to the court required under section 260D.105, subdivision 2.

Sec. 49. [260D.105] AGENCY REPORT TO THE COURT AND COURT REVIEW OF CHILD IN VOLUNTARY FOSTER CARE FOR TREATMENT DUE TO DISABILITY.

Subdivision 1. **Judicial review.** In the case of a child in voluntary foster care for treatment due to disability under section 260D.101, the agency shall obtain judicial review of the child's voluntary foster care placement within 165 days of the placement.

Subd. 2. **Agency report to court; court review.** The agency shall obtain judicial review by reporting to the court according to the following procedures:

(a) A written report shall be forwarded to the court within 165 days of the date of the voluntary placement agreement. The written report shall contain or have attached:

(1) a statement of facts that necessitate the child's foster care placement;

(2) the child's name, date of birth, race, gender, and current address;

(3) the names, race, date of birth, residence, and post office addresses of the child's parents or legal custodian;

(4) a statement regarding the child's eligibility for membership or enrollment in an Indian tribe and the agency's compliance with applicable provisions of sections 260.751 to 260.835;

(5) the names and addresses of the foster parents or chief administrator of the facility in which the child is placed, if the child is not in a family foster home or group home;

(6) a copy of the out-of-home placement plan required under section 260C.212, subdivision 1;

(7) a written summary of the proceedings of any administrative review required under section 260C.212, subdivision 7; and

(8) any other information the agency, parent or legal custodian, the child or the foster parent, or other residential facility wants the court to consider.

(b) In the case of a child in placement due to emotional disturbance, the written report shall include as an attachment, the child's individual treatment plan developed by the child's treatment professional, as provided in section 245.4871, subdivision 21, or the child's individual interagency intervention plan, as provided in section 125A.023, subdivision 3, paragraph (c).

(c) In the case of a child in placement due to developmental disability or a related condition, the written report shall include as an attachment, the child's individual service plan, as provided in section 256B.092, subdivision 1b; the child's individual program plan, as provided in Minnesota Rules, part 9525.0004, subpart 11; the child's waiver care plan; or the child's individual interagency intervention plan, as provided in section 125A.023, subdivision 3, paragraph (c).

(d) The agency must inform the child, age 12 or older, the child's parent, and the foster parent or foster care facility of the reporting and court review requirements of this section and of their right to submit information to the court:

(1) if the child or the child's parent or the foster care provider wants to send information to the court, the agency shall advise those persons of the reporting date and the date by which the agency must receive the information they want forwarded to the court so the agency is timely able submit it with the agency's report required under this subdivision;

(2) the agency must also inform the child, age 12 or older, the child's parent, and the foster care facility that they have the right to be heard in person by the court and how to exercise that right;

(3) the agency must also inform the child, age 12 or older, the child's parent, and the foster care provider that an in-court hearing will be held if requested by the child, the parent, or the foster care provider; and

(4) if, at the time required for the report under this section, a child, age 12 or older, disagrees about the foster care facility or services provided under the out-of-home placement plan required under section 260C.212, subdivision 1, the agency shall include information regarding the child's disagreement, and to the extent possible, the basis for the child's disagreement in the report required under this section.

(e) After receiving the required report, the court has jurisdiction to make the following determinations and must do so within ten days of receiving the forwarded report, whether a hearing is requested:

(1) whether the voluntary foster care arrangement is in the child's best interests;

(2) whether the parent and agency are appropriately planning for the child; and

(3) in the case of a child age 12 or older, who disagrees with the foster care facility or services provided under the out-of-home placement plan, whether it is appropriate to appoint counsel and a guardian ad litem for the child using standards and procedures under section 260C.163.

(f) Unless requested by a parent, representative of the foster care facility, or the child, no in-court hearing is required in order for the court to make findings and issue an order as required in paragraph (e).

(g) If the court finds the voluntary foster care arrangement is in the child's best interests and that the agency and parent are appropriately planning for the child, the court shall issue an order containing explicit, individualized findings to support its determination. The individualized findings shall be based on the agency's written report and other materials submitted to the court. The court may make this determination notwithstanding the child's disagreement, if any, reported under paragraph (d).

(h) The court shall send a copy of the order to the county attorney, the agency, parent, child, age 12 or older, and the foster parent or foster care facility.

(i) The court shall also send the parent, the child, age 12 or older, the foster parent, or representative of the foster care facility notice of the permanency review hearing required under section 260D.107, paragraph (e).

(j) If the court finds continuing the voluntary foster care arrangement is not in the child's best interests or that the agency or the parent are not appropriately planning for the child, the court shall notify the agency, the parent, the foster parent or foster care facility, the child, age 12 or older, and the county attorney of the court's determinations and the basis for the court's determinations. In this case, the court shall set the matter for hearing and appoint a guardian ad litem for the child under section 260C.163, subdivision 5.

Sec. 50. **[260D.107] REQUIRED PERMANENCY REVIEW HEARING.**

(a) When the court has found that the voluntary arrangement is in the child's best interests and that the agency and parent are appropriately planning for the child pursuant to the report submitted under section 260D.105, and the child continues in voluntary foster care as defined in section 260D.005, subdivision 10, for 13 months from the date of the voluntary foster care agreement, or has been in placement for 15 of the last 22 months, the agency must:

(1) terminate the voluntary foster care agreement and return the child home; or

(2) determine whether there are compelling reasons to continue the voluntary foster care arrangement and, if the agency determines there are compelling reasons, seek judicial approval of its determination; or

(3) file a petition for the termination of parental rights.

(b) When the agency is asking for the court's approval of its determination that there are compelling reasons to continue the child in the voluntary foster care arrangement, the agency shall file a "Petition for Permanency Review Regarding a Child in Voluntary Foster Care for Treatment" and ask the court to proceed under this section.

(c) The "Petition for Permanency Review Regarding a Child in Voluntary Foster Care for Treatment" shall be drafted or approved by the county attorney and be under oath. The petition shall include:

(1) the date of the voluntary placement agreement;

(2) whether the petition is due to the child's developmental disability or emotional disturbance;

(3) the plan for the ongoing care of the child and the parent's participation in the plan;

(4) a description of the parent's visitation and contact with the child;

(5) the date of the court finding that the foster care placement was in the best interests of the child, if required under section 260D.105, or the date the agency filed the motion under section 260D.201, paragraph (b);

(6) the agency's reasonable efforts to finalize the permanent plan for the child, including returning the child to the care of the child's family; and

(7) a citation to this chapter as the basis for the petition.

(d) An updated copy of the out-of-home placement plan required under section 260C.212, subdivision 1, shall be filed with the petition.

(e) The court shall set the date for the permanency review hearing no later than 14 months after the child has been in placement or within 30 days of the petition filing date when the child has been in placement 15 of the last 22 months. The court shall serve the petition together with a notice of hearing by United States mail on the parent, the child age 12 or older, the child's guardian ad litem, if one has been appointed, the agency, the county attorney, and counsel for any party.

(f) The court shall conduct the permanency review hearing on the petition no later than 14 months after the date of the voluntary placement agreement, within 30 days of the filing of the petition when the child has been in placement 15 days of the last 22 months, or within 15 days of a motion to terminate jurisdiction and to dismiss an order for foster care under chapter 260C, as provided in section 260D.201, paragraph (b).

(g) At the permanency review hearing, the court shall:

(1) inquire of the parent if the parent has reviewed the "Petition for Permanency Review Regarding a Child in Voluntary Foster Care for Treatment," whether the petition is accurate, and whether the parent agrees to the continued voluntary foster care arrangement as being in the child's best interests;

(2) inquire of the parent if the parent is satisfied with the agency's reasonable efforts to finalize the permanent plan for the child, including whether there are services available and accessible to the parent that might allow the child to safely be with the child's family;

(3) inquire of the parent if the parent consents to the court entering an order that:

(i) approves the responsible agency's reasonable efforts to finalize the permanent plan for the child, which includes ongoing future planning for the safety, health, and best interests of the child; and

(ii) approves the responsible agency's determination that there are compelling reasons why the continued voluntary foster care arrangement is in the child's best interests; and

(4) inquire of the child's guardian ad litem and any other party whether the guardian or the party agrees that:

(i) the court should approve the responsible agency's reasonable efforts to finalize the permanent plan for the child, which includes ongoing and future planning for the safety, health, and best interests of the child; and

(ii) the court should approve of the responsible agency's determination that there are compelling reasons why the continued voluntary foster care arrangement is in the child's best interests.

(h) At a permanency review hearing under this section, the court may take the following actions based on the contents of the sworn petition and the consent of the parent:

(1) approve the agency's compelling reasons that the voluntary foster care arrangement is in the best interests of the child; and

(2) find that the agency has made reasonable efforts to finalize a plan for the permanent plan for the child.

(i) A child, age 12 or older, may object to the agency's request that the court approve its compelling reasons for the continued voluntary arrangement and may be heard on the reasons for the objection. Notwithstanding the child's objection, the court may approve the agency's compelling reasons and the voluntary arrangement.

(j) If the court does not approve the voluntary arrangement after hearing from the child or the child's guardian ad litem, the court shall dismiss the petition. In this case, either:

(1) the child must be returned to the care of the parent; or

(2) the agency must file a petition under section 260C.141, asking for appropriate relief under section 260C.201, subdivision 11, or 260C.301.

(k) When the court approves the agency's compelling reasons for the child to continue in voluntary foster care for treatment, and finds that the agency has made reasonable efforts to finalize a permanent plan for the child, the court shall approve the continued voluntary foster care arrangement, and continue the matter under the court's jurisdiction for the purposes of reviewing the child's placement every 12 months while the child is in foster care.

(l) A finding that the court approves the continued voluntary placement means the agency has continued legal authority to place the child while a voluntary placement agreement remains in effect. The parent or the agency may terminate a voluntary agreement as provided in section 260D.301. Termination of a voluntary foster care placement of an Indian child is governed by section 260.765, subdivision 4.

Sec. 51. **[260D.109] ANNUAL REVIEW.**

(a) After the court conducts a permanency review hearing under section 260D.107, the matter must be returned to the court for further review of 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;

(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. 52. **[260D.201] PERMANENCY REVIEW AFTER ADJUDICATION UNDER CHAPTER 260C.**

(a) If a child has been ordered into foster care under section 260C.178 or 260C.201, subdivision 1, and the conditions that led to the court's order have been corrected so that the child could safely return home except for the child's need to continue in foster care for treatment due to the child's disability, the child's parent and the agency may enter into a voluntary foster care agreement under this chapter using the procedure set out in paragraph (b).

(b) When the agency and the parent agree to enter into a voluntary foster care agreement under this chapter, the agency must file a motion to terminate jurisdiction under section 260C.193, subdivision 6, and to dismiss the order for foster care under section 260C.178 or 260C.201, subdivision 1, together with the petition required under section 260D.107, paragraph (b), for permanency review and the court's approval of the voluntary arrangement.

(c) The court shall send the motion and the petition filed under subdivision 2 together with a notice of hearing by mail as required in section 260D.107, paragraph (e).

(d) The petition and motion under this section must be filed no later than the time the agency is required to file a petition for permanent placement under section 260C.201, subdivision 11, but may be filed as soon as the agency and the parent agree that the child should remain in foster care under a voluntary foster care agreement, because the child needs treatment and voluntary foster care is in the child's best interest.

(e) In order for the agency to have continuous legal authority to place the child, the parent and the agency must execute a voluntary foster care agreement for the child's continuation in foster care for treatment prior to the termination of the order for foster care under section 260C.178 or 260C.201, subdivision 1. The parent and agency may execute the voluntary foster care agreement at or before the permanency review hearing required under this section. The voluntary foster care agreement shall not be effective until the court terminates jurisdiction under section 260C.193, subdivision 6, and dismisses the order for foster care under section 260C.178 or 260C.201, subdivision 1. Unless the agency and the parent execute a voluntary placement agreement for the child to continue in voluntary foster care for treatment, the agency shall not have legal authority to place the child after the court terminates jurisdiction under chapter 260C.

Sec. 53. **[260D.301] TERMINATION OF VOLUNTARY PLACEMENT AGREEMENT.**

(a) The child's parent may terminate a voluntary placement agreement under this chapter upon written notice to the agency of the termination of the agreement. The termination of a voluntary foster care agreement regarding an Indian child shall be governed by section 260.765, subdivision 4.

(b) The agency may terminate a voluntary placement agreement under this section upon written notice of the termination of the agreement to the parent. Prior to sending notice of termination of the voluntary foster care placement agreement, the agency shall contact the parent regarding transition planning under paragraph (e). Written notice by the agency shall be considered received by the parent three business days after mailing by the agency.

(c) Upon receipt of notice of the termination of the voluntary foster care agreement, the agency, the parent, and the facility may agree to a time that the child shall return home. The scheduled time to return home shall meet the child's need for safety and reasonable transition. Unless otherwise agreed by the parent and the agency, the child's return home shall not occur sooner than 72 hours and not later than 30 days after written notice of termination is received or sent by the agency.

(d) A parent who disagrees with the termination of a voluntary foster care agreement by the agency under this chapter has the right to a fair hearing under section 256.045 to appeal the termination of the voluntary foster care agreement. When the agency gives written notice to the parent of the termination of the agreement, the agency must also give the parent notice of the parent's right to a fair hearing under section 256.045 to appeal the agency's decision to terminate the voluntary foster care agreement.

(e) The agency and the child's parents shall engage in transition planning for the child's return home, including establishing a scheduled time for the child to return home, an increased visitation plan between the parent and child, and a plan for what services will be provided and in place upon the child's return home.

(f) Notice of termination of voluntary foster care agreement does not terminate the agreement. The voluntary foster care agreement and the agency's legal authority to place the child are terminated by the child's return home or by court order.

Sec. 54. Minnesota Statutes 2006, section 524.2-114, is amended to read:

524.2-114 MEANING OF CHILD AND RELATED TERMS.

If, for purposes of intestate succession, a relationship of parent and child must be established to determine succession by, through, or from a person:

(1) An adopted ~~person~~ child is the child of an adopting parent and not of the birth parents except that adoption of a child by the spouse of a birth parent has no effect on the relationship between the child and that birth parent. If a parent dies and a child is subsequently adopted by a stepparent who is the spouse of a surviving parent, any rights of inheritance of the child or the child's descendant from or through the deceased parent of the child which exist at the time of the death of that parent shall not be affected by the adoption.

(2) In cases not covered by clause (1), a person is the child of the person's parents regardless of the marital status of the parents and the parent and child relationship may be established under the Parentage Act, sections 257.51 to 257.74.

Sec. 55. Minnesota Statutes 2006, section 626.556, subdivision 7, is amended to read:

Subd. 7. **Report.** An oral report shall be made immediately by telephone or otherwise. An oral report made by a person required under subdivision 3 to report shall be followed within 72 hours, exclusive of weekends and holidays, by a report in writing to the appropriate police department, the county sheriff, the agency responsible for assessing or investigating the report, or the local welfare agency, unless the appropriate agency has informed the reporter that the oral information does not constitute a report under subdivision 10. The local welfare agency shall determine if the report is accepted for an assessment or investigation as soon as possible but in no event longer than 24 hours after the report is received. Any report shall be of sufficient content to identify the child, any person believed to be responsible for the abuse or neglect of the child if the person is known, the nature and extent of the abuse or neglect and the name and address of the reporter. If requested, the local welfare agency or the agency responsible for assessing or investigating the report shall inform the reporter within ten days after the report is made, either orally or in writing, whether the report was accepted for assessment or investigation. Written reports received by a police department or the county sheriff shall be forwarded immediately to the local welfare agency or the agency responsible for assessing or investigating the report. The police department or the county sheriff may keep copies of reports received by them. Copies of written reports received by a local welfare department or the agency responsible for assessing or investigating the report shall be forwarded immediately to the local police department or the county sheriff.

A written copy of a report maintained by personnel of agencies, other than welfare or law enforcement agencies, which are subject to chapter 13 shall be confidential. An individual subject of the report may obtain access to the original report as provided by subdivision 11.

Sec. 56. Minnesota Statutes 2007 Supplement, section 626.556, subdivision 10a, is amended to read:

Subd. 10a. **Law enforcement agency responsibility for investigation; welfare agency reliance on law enforcement fact-finding; welfare agency offer of services.** (a) If the report alleges neglect, physical abuse, or sexual abuse by a person who is not a parent, guardian, sibling, person responsible for the child's care functioning within the family unit, or a person who lives in the child's household and who has a significant relationship to the child, in a setting other than a facility as defined in subdivision 2, the local welfare agency shall immediately notify the appropriate law enforcement agency, which shall conduct an investigation of the alleged abuse or neglect if a violation of a criminal statute is alleged.

(b) The local agency may rely on the fact-finding efforts of the law enforcement investigation conducted under this subdivision to make a determination whether or not threatened ~~harm~~ injury or other maltreatment has occurred under subdivision 2 if an alleged offender has minor children or lives with minors.

(c) The local welfare agency shall offer appropriate social services for the purpose of safeguarding and enhancing the welfare of the abused or neglected minor.

Sec. 57. **TARGETED CASE MANAGEMENT SERVICES FOR CHILDREN.**

The commissioner of human services shall seek an amendment to the state plan to provide targeted case management services to children with developmental disabilities who are in need of activities that coordinate and link social and other services designed to help children gain access to needed medical, social, educational, and other services under Minnesota Statutes, section 256B.092.

Sec. 58. **REVISOR'S INSTRUCTION.**

In each section of Minnesota Statutes referred to in column A, the revisor of statutes shall delete the reference in column B and insert the reference in column C.

<u>Column A</u>	<u>Column B</u>	<u>Column C</u>
<u>259.67</u> <u>256B.094</u>	<u>260.851, article 5</u> <u>260.851</u>	<u>260.853, article 4</u> <u>260.853</u>

EFFECTIVE DATE. This section is effective upon legislative enactment of the interstate compact in section 23 by no less than 35 states.

Sec. 59. **REPEALER.**

(a) Minnesota Statutes 2006, section 260.851, is repealed effective upon legislative enactment of the interstate compact in section 23 by no less than 35 states. The commissioner of human services shall inform the revisor of statutes when this occurs.

(b) Minnesota Statutes 2006, sections 260B.241; 260C.141, subdivision 2a; 260C.207; 260C.431; and 260C.435, are repealed.

(c) Minnesota Statutes 2007 Supplement, section 260C.212, subdivision 9, is repealed.

Minnesota Rules, parts 9560.0092; 9560.0093, subpart 2; and 9560.0609, are repealed.

ARTICLE 2

LICENSING

Section 1. Minnesota Statutes 2007 Supplement, section 245C.14, subdivision 1, is amended to read:

Subdivision 1. **Disqualification from direct contact.** (a) The commissioner shall disqualify an individual who is the subject of a background study from any position allowing direct contact with persons receiving services from the license holder or entity identified in section 245C.03, upon receipt of information showing, or when a background study completed under this chapter shows any of the following:

(1) a conviction of, admission to, or Alford plea to one or more crimes listed in section 245C.15, regardless of whether the conviction or admission is a felony, gross misdemeanor, or misdemeanor level crime;

(2) ~~a preponderance of the~~ clear and convincing evidence indicates the individual has committed an act or acts that meet the definition of any of the crimes listed in section 245C.15, regardless of whether the ~~preponderance of the~~ clear and convincing evidence is for a felony, gross misdemeanor, or misdemeanor level crime; or

(3) an investigation results in an administrative determination listed under section 245C.15, subdivision 4, paragraph (b).

(b) No individual who is disqualified following a background study under section 245C.03, subdivisions 1 and 2, may be retained in a position involving direct contact with persons served by a program or entity identified in section 245C.03, unless the commissioner has provided written notice under section 245C.17 stating that:

(1) the individual may remain in direct contact during the period in which the individual may request reconsideration as provided in section 245C.21, subdivision 2;

(2) the commissioner has set aside the individual's disqualification for that program or entity identified in section 245C.03, as provided in section 245C.22, subdivision 4; or

(3) the license holder has been granted a variance for the disqualified individual under section 245C.30.

Sec. 2. Minnesota Statutes 2007 Supplement, section 245C.15, subdivision 2, is amended to read:

Subd. 2. **15-year disqualification.** (a) An individual is disqualified under section 245C.14 if: (1) less than 15 years have passed since the discharge of the sentence imposed, if any, for the offense; and (2) the individual has committed a felony-level violation of any of the following offenses: sections 256.98 (wrongfully obtaining assistance); 268.182 (false representation; concealment of facts); 393.07, subdivision 10, paragraph (c) (federal Food Stamp Program fraud); 609.165 (felon ineligible to possess firearm); 609.21 (criminal vehicular homicide and injury); 609.215 (suicide); 609.223 or 609.2231 (assault in the third or fourth degree); repeat offenses under 609.224 (assault in the fifth degree); 609.229 (crimes committed for benefit of a gang); 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 crime); 609.24 (simple robbery); 609.255 (false imprisonment); 609.2664 (manslaughter of an unborn child in the first degree); 609.2665 (manslaughter of an unborn child in the second degree); 609.267 (assault of an unborn child in the first degree); 609.2671 (assault of an unborn child in the second degree); 609.268 (injury or death of an unborn child in the commission of a crime); 609.27 (coercion); 609.275 (attempt to coerce); 609.466 (medical assistance fraud); 609.498, subdivision 1 or 1b (aggravated first degree or first degree tampering with a witness); 609.52 (theft); 609.521 (possession of shoplifting gear); 609.525 (bringing stolen goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property); 609.535 (issuance of dishonored checks); 609.562 (arson in the second degree); 609.563 (arson in the third degree); 609.582 (burglary); 609.59 (possession of burglary tools);

609.611 (insurance fraud); 609.625 (aggravated forgery); 609.63 (forgery); 609.631 (check forgery; offering a forged check); 609.635 (obtaining signature by false pretense); 609.66 (dangerous weapons); 609.67 (machine guns and short-barreled shotguns); 609.687 (adulteration); 609.71 (riot); 609.713 (terroristic threats); 609.82 (fraud in obtaining credit); 609.821 (financial transaction card fraud); 617.23 (indecent exposure), not involving a minor; repeat offenses under 617.241 (obscene materials and performances; distribution and exhibition prohibited; penalty); 624.713 (certain persons not to possess firearms); chapter 152 (drugs; controlled substance); or a felony-level conviction involving alcohol or drug use.

(b) An individual is disqualified under section 245C.14 if less than 15 years has passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraph (a), as each of these offenses is defined in Minnesota Statutes.

(c) For foster care and family child care an individual is disqualified under section 245C.14 if less than 15 years has passed since the individual's voluntary termination of the individual's parental rights under section 260C.301, subdivision 1, paragraph (b), or 260C.301, subdivision 3.

(d) An individual is disqualified under section 245C.14 if less than 15 years has passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of the offenses listed in paragraph (a).

(e) If the individual studied commits one of the offenses listed in paragraph (a), but the sentence or level of offense is a gross misdemeanor or misdemeanor, the individual is disqualified but the disqualification look-back period for the offense is the period applicable to the gross misdemeanor or misdemeanor disposition.

(f) When a disqualification is based on a judicial determination other than a conviction, the disqualification period begins from the date of the court order. When a disqualification is based on an admission, the disqualification period begins from the date of an admission in court. When a disqualification is based on a ~~preponderance of~~ clear and convincing evidence of a disqualifying act, the disqualification date begins from the date of the dismissal, the date of discharge of the sentence imposed for a conviction for a disqualifying crime of similar elements, or the date of the incident, whichever occurs last.

Sec. 3. Minnesota Statutes 2007 Supplement, section 245C.15, subdivision 3, is amended to read:

Subd. 3. **Ten-year disqualification.** (a) An individual is disqualified under section 245C.14 if: (1) less than ten years have passed since the discharge of the sentence imposed, if any, for the offense; and (2) the individual has committed a gross misdemeanor-level violation of any of the following offenses: sections 256.98 (wrongfully obtaining assistance); 268.182 (false representation; concealment of facts); 393.07, subdivision 10, paragraph (c) (federal Food Stamp Program fraud); 609.21 (criminal vehicular homicide and injury); 609.221 or 609.222 (assault in the first or second degree); 609.223 or 609.2231 (assault in the third or fourth degree); 609.224 (assault in the fifth degree); 609.224, subdivision 2, paragraph (c) (assault in the fifth degree by a caregiver against a vulnerable adult); 609.2242 and 609.2243 (domestic assault); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse of a vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.265 (abduction); 609.275 (attempt to coerce); 609.324, subdivision 1a (other prohibited acts; minor engaged in prostitution); 609.33 (disorderly house); 609.377 (malicious punishment of a child); 609.378 (neglect or endangerment of a child); 609.466 (medical assistance fraud); 609.52 (theft); 609.525 (bringing stolen goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property); 609.535 (issuance of dishonored checks); 609.582 (burglary); 609.59 (possession of burglary tools); 609.611 (insurance fraud); 609.631 (check forgery; offering a forged check); 609.66 (dangerous weapons); 609.71 (riot); 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); repeat offenses under 609.746 (interference with privacy); 609.749, subdivision 2 (harassment; stalking); 609.82 (fraud in obtaining credit); 609.821 (financial transaction card fraud); 617.23

(indecent exposure), not involving a minor; 617.241 (obscene materials and performances); 617.243 (indecent literature, distribution); 617.293 (harmful materials; dissemination and display to minors prohibited); or violation of an order for protection under section 518B.01, subdivision 14.

(b) An individual is disqualified under section 245C.14 if less than ten years has passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraph (a), as each of these offenses is defined in Minnesota Statutes.

(c) An individual is disqualified under section 245C.14 if less than ten years has passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in paragraph (a).

(d) If the individual studied commits one of the offenses listed in paragraph (a), but the sentence or level of offense is a misdemeanor disposition, the individual is disqualified but the disqualification lookback period for the offense is the period applicable to misdemeanors.

(e) When a disqualification is based on a judicial determination other than a conviction, the disqualification period begins from the date of the court order. When a disqualification is based on an admission, the disqualification period begins from the date of an admission in court. When a disqualification is based on a ~~preponderance of~~ clear and convincing evidence of a disqualifying act, the disqualification date begins from the date of the dismissal, the date of discharge of the sentence imposed for a conviction for a disqualifying crime of similar elements, or the date of the incident, whichever occurs last.

Sec. 4. Minnesota Statutes 2007 Supplement, section 245C.15, subdivision 4, is amended to read:

Subd. 4. **Seven-year disqualification.** (a) An individual is disqualified under section 245C.14 if: (1) less than seven years has passed since the discharge of the sentence imposed, if any, for the offense; and (2) the individual has committed a misdemeanor-level violation of any of the following offenses: sections 256.98 (wrongfully obtaining assistance); 268.182 (false representation; concealment of facts); 393.07, subdivision 10, paragraph (c) (federal Food Stamp Program fraud); 609.21 (criminal vehicular homicide and injury); 609.221 (assault in the first degree); 609.222 (assault in the second degree); 609.223 (assault in the third degree); 609.2231 (assault in the fourth degree); 609.224 (assault in the fifth degree); 609.2242 (domestic assault); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.2672 (assault of an unborn child in the third degree); 609.27 (coercion); violation of an order for protection under 609.3232 (protective order authorized; procedures; penalties); 609.466 (medical assistance fraud); 609.52 (theft); 609.525 (bringing stolen goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property); 609.535 (issuance of dishonored checks); 609.611 (insurance fraud); 609.66 (dangerous weapons); 609.665 (spring guns); 609.746 (interference with privacy); 609.79 (obscene or harassing telephone calls); 609.795 (letter, telegram, or package; opening; harassment); 609.82 (fraud in obtaining credit); 609.821 (financial transaction card fraud); 617.23 (indecent exposure), not involving a minor; 617.293 (harmful materials; dissemination and display to minors prohibited); or violation of an order for protection under section 518B.01 (Domestic Abuse Act).

(b) An individual is disqualified under section 245C.14 if less than seven years has passed since a determination or disposition of the individual's:

(1) failure to make required reports under section 626.556, subdivision 3, or 626.557, subdivision 3, for incidents in which: (i) the final disposition under section 626.556 or 626.557 was substantiated maltreatment, and (ii) the maltreatment was recurring or serious; or

(2) substantiated serious or recurring maltreatment of a minor under section 626.556, a vulnerable adult under section 626.557, or serious or recurring maltreatment in any other state, the elements of which are substantially similar to the elements of maltreatment under section 626.556 or 626.557 for which: (i) there is a preponderance of evidence that the maltreatment occurred, and (ii) the subject was responsible for the maltreatment.

(c) An individual is disqualified under section 245C.14 if less than seven years has passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraphs (a) and (b), as each of these offenses is defined in Minnesota Statutes.

(d) An individual is disqualified under section 245C.14 if less than seven years has passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in paragraphs (a) and (b).

(e) When a disqualification is based on a judicial determination other than a conviction, the disqualification period begins from the date of the court order. When a disqualification is based on an admission, the disqualification period begins from the date of an admission in court. When a disqualification is based on a ~~preponderance of clear and convincing~~ evidence of a disqualifying act, the disqualification date begins from the date of the dismissal, the date of discharge of the sentence imposed for a conviction for a disqualifying crime of similar elements, or the date of the incident, whichever occurs last.

(f) An individual is disqualified under section 245C.14 if less than seven years has passed since the individual was disqualified under section 256.98, subdivision 8.

Sec. 5. Minnesota Statutes 2006, section 245C.24, subdivision 2, is amended to read:

Subd. 2. **Permanent bar to set aside a disqualification.** (a) Except as provided in ~~paragraph~~ paragraphs (b), (c) and (d), the commissioner may not set aside the disqualification of any individual disqualified pursuant to this chapter, regardless of how much time has passed, if the individual was disqualified for a crime or conduct listed in section 245C.15, subdivision 1.

(b) ~~For~~ An individual in the chemical dependency field who was:

(1) disqualified for a crime or conduct listed under section 245C.15, subdivision 1, and;

(2) whose disqualification was set aside prior to July 1, 2005, the commissioner must consider granting; and

(3) was granted a variance pursuant to section 245C.30 for the license holder for a program dealing primarily with adults. A request for reconsideration evaluated under this paragraph must include a letter of recommendation from the license holder that was subject to the prior set aside decision addressing the individual's quality of care to children or vulnerable adults and the circumstances of the individual's departure from that service under this section prior to August 1, 2008, is eligible to request a set-aside under paragraph (c).

(c) For any individual who was disqualified for a crime or conduct listed under section 245C.15, subdivision 1, and whose disqualification was set aside prior to July 1, 2005, the commissioner must consider granting a set-aside pursuant to section 245C.22. An employer who hires any individual who provides in-home services shall monitor service provision with the client by telephone at least quarterly.

(d) For an individual who was disqualified for an offense under section 609.66, subdivision 1e, that was committed when the individual was a minor, and more than seven years has passed since the incident, during which time the individual has attended and graduated from college, the commissioner may consider setting aside the disqualification for a children's residential facility licensed by the Department of Corrections.

EFFECTIVE DATE. This section is effective August 1, 2008.

Sec. 6. Minnesota Statutes 2007 Supplement, section 245C.24, subdivision 3, is amended to read:

Subd. 3. **Ten-year bar to set aside disqualification.** (a) The commissioner may not set aside the disqualification of an individual in connection with a license to provide family child care for children, foster care for children in the provider's home, or foster care or day care services for adults in the provider's home if: (1) less than ten years has passed since the discharge of the sentence imposed, if any, for the offense; or (2) when disqualified based on ~~a preponderance of clear and convincing~~ evidence determination under section 245C.14, subdivision 1, paragraph (a), clause (2), or an admission under section 245C.14, subdivision 1, paragraph (a), clause (1), and less than ten years has passed since the individual committed the act or admitted to committing the act, whichever is later; and (3) the individual has committed a violation of any of the following offenses: sections 609.165 (felon ineligible to possess firearm); criminal vehicular homicide under 609.21 (criminal vehicular homicide and injury); 609.215 (aiding suicide or aiding attempted suicide); felony violations under 609.223 or 609.2231 (assault in the third or fourth degree); 609.229 (crimes committed for benefit of a gang); 609.713 (terroristic threats); 609.235 (use of drugs to injure or to facilitate crime); 609.24 (simple robbery); 609.255 (false imprisonment); 609.562 (arson in the second degree); 609.71 (riot); 609.498, subdivision 1 or 1b (aggravated first degree or first degree tampering with a witness); burglary in the first or second degree under 609.582 (burglary); 609.66 (dangerous weapon); 609.665 (spring guns); 609.67 (machine guns and short-barreled shotguns); 609.749, subdivision 2 (gross misdemeanor harassment; stalking); 152.021 or 152.022 (controlled substance crime in the first or second degree); 152.023, subdivision 1, clause (3) or (4) or subdivision 2, clause (4) (controlled substance crime in the third degree); 152.024, subdivision 1, clause (2), (3), or (4) (controlled substance crime in the fourth degree); 609.224, subdivision 2, paragraph (c) (fifth-degree assault by a caregiver against a vulnerable adult); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse of a vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report); 609.265 (abduction); 609.2664 to 609.2665 (manslaughter of an unborn child in the first or second degree); 609.267 to 609.2672 (assault of an unborn child in the first, second, or third degree); 609.268 (injury or death of an unborn child in the commission of a crime); repeat offenses under 617.23 (indecent exposure); 617.293 (disseminating or displaying harmful material to minors); a felony-level conviction involving alcohol or drug use, a gross misdemeanor offense under 609.324, subdivision 1 (other prohibited acts); a gross misdemeanor offense under 609.378 (neglect or endangerment of a child); a gross misdemeanor offense under 609.377 (malicious punishment of a child); 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); or 624.713 (certain persons not to possess firearms).

(b) The commissioner may not set aside the disqualification of an individual if less than ten years have passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraph (a) as each of these offenses is defined in Minnesota Statutes.

(c) The commissioner may not set aside the disqualification of an individual if less than ten years have passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in paragraph (a).

Sec. 7. Minnesota Statutes 2007 Supplement, section 245C.27, subdivision 1, is amended to read:

Subdivision 1. **Fair hearing when disqualification is not set aside.** (a) If the commissioner does not set aside a disqualification of an individual under section 245C.22 who is disqualified on the basis of ~~a preponderance of clear and convincing~~ evidence that the individual committed an act or acts that meet the definition of any of the crimes listed in section 245C.15; for a determination under section 626.556 or 626.557 of substantiated maltreatment that was serious or recurring under section 245C.15; or for failure to make required reports under section 626.556, subdivision 3; or 626.557, subdivision 3, pursuant to section 245C.15, subdivision 4, paragraph (b), clause (1), the individual may request a fair hearing under section 256.045, unless the disqualification is deemed conclusive under section 245C.29.

(b) The fair hearing is the only administrative appeal of the final agency determination for purposes of appeal by the disqualified individual. The disqualified individual does not have the right to challenge the accuracy and completeness of data under section 13.04.

(c) Except as provided under paragraph (e), if the individual was disqualified based on a conviction or admission to any crimes listed in section 245C.15, subdivisions 1 to 4, or for a disqualification under section 256.98, subdivision 8, the reconsideration decision under section 245C.22 is the final agency determination for purposes of appeal by the disqualified individual and is not subject to a hearing under section 256.045. If the individual was disqualified based on a judicial determination, that determination is treated the same as a conviction for purposes of appeal.

(d) This subdivision does not apply to a public employee's appeal of a disqualification under section 245C.28, subdivision 3.

(e) Notwithstanding paragraph (c), if the commissioner does not set aside a disqualification of an individual who was disqualified based on both ~~a preponderance of~~ clear and convincing evidence and a conviction or admission, the individual may request a fair hearing under section 256.045, unless the disqualifications are deemed conclusive under section 245C.29. The scope of the hearing conducted under section 256.045 with regard to the disqualification based on a conviction or admission shall be limited solely to whether the individual poses a risk of harm, according to section 256.045, subdivision 3b. In this case, the reconsideration decision under section 245C.22 is not the final agency decision for purposes of appeal by the disqualified individual.

Sec. 8. Minnesota Statutes 2006, section 245C.29, subdivision 2, is amended to read:

Subd. 2. **Conclusive disqualification determination.** (a) Unless otherwise specified in statute, a determination that:

(1) the information the commissioner relied upon to disqualify an individual under section 245C.14 was correct based on serious or recurring maltreatment;

(2) ~~a preponderance of the~~ clear and convincing evidence shows that the individual committed an act or acts that meet the definition of any of the crimes listed in section 245C.15; or

(3) the individual failed to make required reports under section 626.556, subdivision 3, or 626.557, subdivision 3, is conclusive if:

(i) the commissioner has issued a final order in an appeal of that determination under section 245A.08, subdivision 5, or 256.045, or a court has issued a final decision;

(ii) the individual did not request reconsideration of the disqualification under section 245C.21; or

(iii) the individual did not request a hearing on the disqualification under section 256.045 or chapter 14.

(b) When a licensing action under section 245A.05, 245A.06, or 245A.07 is based on the disqualification of an individual in connection with a license to provide family child care, foster care for children in the provider's own home, or foster care services for adults in the provider's own home, that disqualification shall be conclusive for purposes of the licensing action if a request for reconsideration was not submitted within 30 calendar days of the individual's receipt of the notice of disqualification.

(c) If a determination that the information relied upon to disqualify an individual was correct and is conclusive under this section, and the individual is subsequently disqualified under section 245C.15, the individual has a right to request reconsideration on the risk of harm under section 245C.21. Subsequent determinations regarding the risk of harm shall be made according to section 245C.22 and are not subject to another hearing under section 256.045 or chapter 14.

Sec. 9. Minnesota Statutes 2006, section 256.045, subdivision 3, is amended to read:

Subd. 3. **State agency hearings.** (a) State agency hearings are available for the following: (1) any person applying for, receiving or having received public assistance, medical care, or a program of social services granted by the state agency or a county agency or the federal Food Stamp Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid; (2) any patient or relative aggrieved by an order of the commissioner under section 252.27; (3) a party aggrieved by a ruling of a prepaid health plan; (4) except as provided under chapter 245C, any individual or facility determined by a lead agency to have maltreated a vulnerable adult under section 626.557 after they have exercised their right to administrative reconsideration under section 626.557; (5) any person whose claim for foster care payment according to a placement of the child resulting from a child protection assessment under section 626.556 is denied or not acted upon with reasonable promptness, regardless of funding source; (6) any person to whom a right of appeal according to this section is given by other provision of law; (7) an applicant aggrieved by an adverse decision to an application for a hardship waiver under section 256B.15; (8) an applicant aggrieved by an adverse decision to an application or redetermination for a Medicare Part D prescription drug subsidy under section 256B.04, subdivision 4a; (9) except as provided under chapter 245A, an individual or facility determined to have maltreated a minor under section 626.556, after the individual or facility has exercised the right to administrative reconsideration under section 626.556; or (10) except as provided under chapter 245C, an individual disqualified under sections 245C.14 and 245C.15, on the basis of serious or recurring maltreatment; ~~a preponderance of the clear~~ and convincing evidence that the individual has committed an act or acts that meet the definition of any of the crimes listed in section 245C.15, subdivisions 1 to 4; or for failing to make reports required under section 626.556, subdivision 3, or 626.557, subdivision 3. Hearings regarding a maltreatment determination under clause (4) or (9) and a disqualification under this clause in which the basis for a disqualification is serious or recurring maltreatment, which has not been set aside under sections 245C.22 and 245C.23, shall be consolidated into a single fair hearing. In such cases, the scope of review by the human services referee shall include both the maltreatment determination and the disqualification. The failure to exercise the right to an administrative reconsideration shall not be a bar to a hearing under this section if federal law provides an individual the right to a hearing to dispute a finding of maltreatment. Individuals and organizations specified in this section may contest the specified action, decision, or final disposition before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action, decision, or final disposition, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause why the request was not submitted within the 30-day time limit.

The hearing for an individual or facility under clause (4), (9), or (10) is the only administrative appeal to the final agency determination specifically, including a challenge to the accuracy and completeness of data under section 13.04. Hearings requested under clause (4) apply only to incidents of maltreatment that occur on or after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged to have maltreated a resident prior to October 1, 1995, shall be held as a contested case proceeding under the provisions of chapter 14. Hearings requested under clause (9) apply only to incidents of maltreatment that occur on or after July 1, 1997. A hearing for an individual or facility under clause (9) is only available when there is no juvenile court or adult criminal action pending. If such action is filed in either court while an administrative review is pending, the administrative review must be suspended until the judicial actions are completed. If the juvenile court action or criminal charge is dismissed or the criminal action overturned, the matter may be considered in an administrative hearing.

For purposes of this section, bargaining unit grievance procedures are not an administrative appeal.

The scope of hearings involving claims to foster care payments under clause (5) shall be limited to the issue of whether the county is legally responsible for a child's placement under court order or voluntary placement agreement and, if so, the correct amount of foster care payment to be made on the child's behalf and shall not include review of the propriety of the county's child protection determination or child placement decision.

(b) A vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a county agency to provide social services is not a party and may not request a hearing under this section, except if assisting a recipient as provided in subdivision 4.

(c) An applicant or recipient is not entitled to receive social services beyond the services prescribed under chapter 256M or other social services the person is eligible for under state law.

(d) The commissioner may summarily affirm the county or state agency's proposed action without a hearing when the sole issue is an automatic change due to a change in state or federal law.

Sec. 10. Minnesota Statutes 2006, section 256.045, subdivision 3b, is amended to read:

Subd. 3b. **Standard of evidence for maltreatment and disqualification hearings.** (a) The state human services referee shall determine that maltreatment has occurred if a preponderance of evidence exists to support the final disposition under sections 626.556 and 626.557. For purposes of hearings regarding disqualification, the state human services referee shall affirm the proposed disqualification in an appeal under subdivision 3, paragraph (a), clause (9), if ~~a preponderance of the evidence shows the individual has~~:

(1) a preponderance of the evidence shows the individual has committed maltreatment under section 626.556 or 626.557, which is serious or recurring;

(2) clear and convincing evidence shows the individual has committed an act or acts meeting the definition of any of the crimes listed in section 245C.15, subdivisions 1 to 4; or

(3) a preponderance of the evidence shows the individual has failed to make required reports under section 626.556 or 626.557, for incidents in which the final disposition under section 626.556 or 626.557 was substantiated maltreatment that was serious or recurring.

(b) If the disqualification is affirmed, the state human services referee shall determine whether the individual poses a risk of harm in accordance with the requirements of section 245C.16, and whether the disqualification should be set aside or not set aside. In determining whether the disqualification should be set aside, the human services referee shall consider all of the characteristics that cause the individual to be disqualified, including those characteristics that were not subject to review under paragraph (a), in order to determine whether the individual poses a risk of harm. A decision to set aside a disqualification that is the subject of the hearing constitutes a determination that the individual does not pose a risk of harm and that the individual may provide direct contact services in the individual program specified in the set aside. If a determination that the information relied upon to disqualify an individual was correct and is conclusive under section 245C.29, and the individual is subsequently disqualified under section 245C.14, the individual has a right to again request reconsideration on the risk of harm under section 245C.21. Subsequent determinations regarding risk of harm are not subject to another hearing under this section.

(c) The state human services referee shall recommend an order to the commissioner of health, education, or human services, as applicable, who shall issue a final order. The commissioner shall affirm, reverse, or modify the final disposition. Any order of the commissioner issued in accordance with this subdivision is conclusive upon the

parties unless appeal is taken in the manner provided in subdivision 7. In any licensing appeal under chapters 245A and 245C and sections 144.50 to 144.58 and 144A.02 to 144A.46, the commissioner's determination as to maltreatment is conclusive, as provided under section 245C.29.

ARTICLE 3

DATA PRIVACY

Section 1. Minnesota Statutes 2006, section 13.46, is amended by adding a subdivision to read:

Subd. 12. **Child care resource and referral programs.** This subdivision applies to data collected by child care resource and referral programs under section 119B.19. Data collected under section 119B.19 are not licensing data under subdivision 4. Data on unlicensed family child care providers are data on individuals governed by subdivision 2. In addition to the disclosures authorized by this section, the names and addresses of unlicensed family child care providers may be disclosed to the commissioner of education for purposes of promoting and evaluating school readiness.

Sec. 2. Minnesota Statutes 2006, section 13.46, is amended by adding a subdivision to read:

Subd. 13. **Family, friend, and neighbor grant program.** This subdivision applies to data collected by family, friend, and neighbor (FFN) grantees under section 119B.232. Data collected under section 119B.232 are data on individuals governed by subdivision 2. The commissioner may disclose private data collected under this section to early childhood care and education experts at the University of Minnesota to evaluate the impact of the grants under subdivision 2 on children's school readiness and to evaluate the FFN grant program. The commissioner may disclose the names and addresses of FFN caregivers to the commissioner of education for purposes of promoting and evaluating school readiness.

Sec. 3. Laws 2007, chapter 147, article 2, section 56, is amended to read:

Sec. 56. COMMISSIONER OF HUMAN SERVICES DUTIES; EARLY CHILDHOOD AND SCHOOL-AGE PROFESSIONAL DEVELOPMENT TRAINING.

Subdivision 1. Development and implementation of an early childhood and school-age professional development system. (a) The commissioner of human services, in cooperation with the commissioners of education and health, shall develop and phase-in the implementation of a professional development system for practitioners serving children in early childhood and school-age programs. The system shall provide training options and supports for practitioners to voluntarily choose, as they complete or exceed existing licensing requirements.

The system must, at a minimum, include the following features:

(1) a continuum of training content based on the early childhood and school-age care practitioner core competencies that translates knowledge into improved practice to support children's school success;

(2) training strategies that provide direct feedback about practice to practitioners through ongoing consultation, mentoring, or coaching with special emphasis on early literacy and early mathematics;

(3) an approval process for trainers;

(4) a professional development registry for early childhood and school-age care practitioners that will provide tracking and recognition of practitioner training/career development progress;

(5) a career lattice that includes a range of professional development and educational opportunities that provide appropriate coursework and degree pathways;

(6) development of a plan with public higher education institutions for an articulated system of education, training, and professional development that includes credit for prior learning and development of equivalences to two- and four-year degrees;

(7) incentives and supports for early childhood and school-age care practitioners to seek additional training and education, including TEACH, other scholarships, and career guidance; and

(8) coordinated and accessible delivery of training to early childhood and school-age care practitioners.

(b) By January 1, 2008, the commissioner, in consultation with the organizations named in subdivision 2 shall develop additional opportunities in order to qualify more licensed family child care providers under section 119B.13, subdivision 3a.

(c) The commissioner of human services must evaluate the professional development system and make continuous improvements.

(d) Beginning July 1, 2007, as appropriations permit, the commissioner shall phase-in the professional development system.

Subd. 2. **Two-hour early childhood training.** By January 15, 2008, the commissioner of human services, with input from the Minnesota Licensed Family Child Care Association and the Minnesota Professional Development Council, shall identify trainings that qualify for the two-hour early childhood development training requirement for new child care practitioners under Minnesota Statutes, section 245A.14, subdivision 9a, paragraphs (a) and (b). For licensed family child care, the commissioner shall also seek the input of labor unions that serve licensed family child care providers, if the union has been recognized by a county to serve licensed family child care providers.

Subd. 3. **Data classification for child care practitioner professional development system.** This subdivision applies to data collected under this section by the child care practitioner professional development system. Data collected under this section is welfare data under section 13.46 but is not licensing data under section 13.46, subdivision 4. Data on individuals who are licensed family child care providers are private data on individuals governed by section 13.46, subdivision 2. The commissioner may disclose nonpublic data collected under this section as described in section 13.46, subdivision 2. The commissioner also may disclose private and nonpublic data collected under this section to the following entities:

(1) personnel of the welfare system who require the data for child care licensing purposes;

(2) personnel of the welfare system who require the data to administer or evaluate the child care assistance program;

(3) the commissioner of education for purposes of implementing, administering, and evaluating the child care practitioner professional development system;

(4) the commissioner of health for purposes of implementing and administering this section; and

(5) an individual's employer for purposes of tracking and verifying employee training, education, and expertise.

ARTICLE 4

ADOPTION

Section 1. Minnesota Statutes 2006, section 13.465, subdivision 8, is amended to read:

Subd. 8. **Adoption records.** Various adoption records are classified under section 259.53, subdivision 1. Access to the original birth record of a person who has been adopted is governed by section ~~259.89~~ 144.2253.

Sec. 2. Minnesota Statutes 2006, section 144.218, subdivision 1, is amended to read:

Subdivision 1. **Adoption.** (a) Upon receipt of a certified copy of an order, decree, or certificate of adoption, the state registrar shall register a replacement vital record in the new name of the adopted person. Except as provided in paragraph (b), the original record of birth is confidential pursuant to private data on individuals, as defined in section 13.02, subdivision 3 12, and shall not be disclosed except pursuant to court order or section 144.2252 or 144.2253.

(b) The information contained on the original birth record, except for the registration number, shall be provided on request to: (1) a parent who is named on the original birth record; or (2) the adopted person who is the subject of the record if the person is at least 19 years of age, unless there is an affidavit of nondisclosure on file with the state registrar. Upon the receipt of a certified copy of a court order of annulment of adoption the state registrar shall restore the original vital record to its original place in the file.

Sec. 3. Minnesota Statutes 2006, section 144.225, subdivision 2, is amended to read:

Subd. 2. **Data about births.** (a) Except as otherwise provided in this subdivision, data pertaining to the birth of a child to a woman who was not married to the child's father when the child was conceived nor when the child was born, including the original record of birth and the certified vital record, are confidential data. At the time of the birth of a child to a woman who was not married to the child's father when the child was conceived nor when the child was born, the mother may designate demographic data pertaining to the birth as public. Notwithstanding the designation of the data as confidential, it may be disclosed:

- (1) to a parent or guardian of the child;
- (2) to the child when the child is 16 years of age or older;
- (3) under paragraph (b) or (e); or
- (4) pursuant to a court order. For purposes of this section, a subpoena does not constitute a court order.

(b) Unless the child is adopted, data pertaining to the birth of a child that are not accessible to the public become public data if 100 years have elapsed since the birth of the child who is the subject of the data, or as provided under section 13.10, whichever occurs first.

(c) If a child is adopted, data pertaining to the child's birth are governed by the provisions relating to adoption records, including sections 13.10, subdivision 5; 144.218, subdivision 1; 144.2252; 144.2253; and 259.89.

(d) The name and address of a mother under paragraph (a) and the child's date of birth may be disclosed to the county social services or public health member of a family services collaborative for purposes of providing services under section 124D.23.

(e) The commissioner of human services shall have access to birth records for:

(1) the purposes of administering medical assistance, general assistance medical care, and the MinnesotaCare program;

(2) child support enforcement purposes; and

(3) other public health purposes as determined by the commissioner of health.

Sec. 4. Minnesota Statutes 2006, section 144.2252, is amended to read:

144.2252 ACCESS TO ORIGINAL BIRTH RECORD AFTER ADOPTION.

(a) Whenever an adopted person requests the state registrar to disclose the information on the adopted person's original birth record, the state registrar shall act according to section ~~259.89~~ 144.2253.

(b) The state registrar shall provide a transcript of an adopted person's original birth record to an authorized representative of a federally recognized American Indian tribe for the sole purpose of determining the adopted person's eligibility for enrollment or membership. Information contained in the birth record may not be used to provide the adopted person information about the person's birth parents, except as provided in this section or section ~~259.83~~ 144.2253.

Sec. 5. [144.2253] ACCESS TO ORIGINAL BIRTH RECORDS BY ADOPTED PERSON; DEPARTMENT DUTIES.

Subdivision 1. **Affidavits.** The department shall prepare affidavit of disclosure and nondisclosure forms under which a birth parent may agree to or object to the release of the original birth record to the adopted person. The department shall make the forms readily accessible to birth parents on the department's Web site.

Subd. 2. **Disclosure.** Upon request, the state registrar shall provide a noncertified copy of the original birth record to an adopted person age 19 or older, unless there is an affidavit of nondisclosure on file. The state registrar must comply with the terms of affidavits of disclosure or affidavits of nondisclosure.

Subd. 3. **Rescission of affidavit.** A birth parent may rescind an affidavit of disclosure or an affidavit of nondisclosure at any time.

Subd. 4. **Affidavit of nondisclosure; access to birth record.** (a) If an affidavit of nondisclosure is on file with the registrar, an adopted person age 19 or older may petition the appropriate court for disclosure of the original birth record pursuant to section 259.61. The court shall grant the petition if, after consideration of the interests of all known persons affected by the petition, the court determines that the benefits of disclosure of the information are greater than the benefits of nondisclosure.

(b) An adopted person age 19 or older may request the state registrar to search the state death records to determine if the birth parent is deceased. The state registrar may impose a fee for the record search. If the birth parent is deceased, a noncertified copy of the original birth record must be released to the adopted person making the request.

Subd. 5. **Information provided.** (a) The department shall, in consultation with adoption agencies and adoption advocates, provide information and educational materials to adopted persons and birth parents about the changes in the law under this act affecting accessibility to birth records. For purposes of this subdivision, an adoption advocate is a nonprofit organization that works with adoption issues in Minnesota.

(b) The department shall include a notice on the department Web site about the change in the law under this act and direct individuals to private agencies and advocates for post adoption resources.

Sec. 6. Minnesota Statutes 2006, section 144.226, subdivision 1, is amended to read:

Subdivision 1. **Which services are for fee.** The fees for the following services shall be the following or an amount prescribed by rule of the commissioner:

(a) The fee for the issuance of a certified vital record or a certification that the vital record cannot be found is \$9. No fee shall be charged for a certified birth, stillbirth, or death record that is reissued within one year of the original issue, if an amendment is made to the vital record and if the previously issued vital record is surrendered. The fee is nonrefundable.

(b) The fee for processing a request for the replacement of a birth record for all events, except when filing a recognition of parentage pursuant to section 257.73, subdivision 1, is \$40. The fee is payable at the time of application and is nonrefundable.

(c) The fee for processing a request for the filing of a delayed registration of birth, stillbirth, or death is \$40. The fee is payable at the time of application and is nonrefundable. This fee includes one subsequent review of the request if the request is not acceptable upon the initial receipt.

(d) The fee for processing a request for the amendment of any vital record when requested more than 45 days after the filing of the vital record is \$40. No fee shall be charged for an amendment requested within 45 days after the filing of the vital record. The fee is payable at the time of application and is nonrefundable. This fee includes one subsequent review of the request if the request is not acceptable upon the initial receipt.

(e) The fee for processing a request for the verification of information from vital records is \$9 when the applicant furnishes the specific information to locate the vital record. When the applicant does not furnish specific information, the fee is \$20 per hour for staff time expended. Specific information includes the correct date of the event and the correct name of the registrant. Fees charged shall approximate the costs incurred in searching and copying the vital records. The fee is payable at the time of application and is nonrefundable.

(f) The fee for processing a request for the issuance of a copy of any document on file pertaining to a vital record or statement that a related document cannot be found is \$9. The fee is payable at the time of application and is nonrefundable.

(g) The department shall charge a fee of \$18 for noncertified copies of birth records provided to adopted persons age 19 or older to cover the cost of providing the birth record and any costs associated with the distribution of information to adopted persons and birth parents required under section 144.2253, subdivision 5.

Sec. 7. Minnesota Statutes 2006, section 259.89, subdivision 1, is amended to read:

Subdivision 1. **Request.** An adopted person who is 19 years of age or over may request the commissioner of health to disclose the information on the adopted person's original birth record. ~~The commissioner of health shall, within five days of receipt of the request, notify the commissioner of human services in writing of the request by the adopted person.~~

Sec. 8. Minnesota Statutes 2006, section 260C.317, subdivision 4, is amended to read:

Subd. 4. **Rights of terminated parent.** 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~~ 144.2253; 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.

Sec. 9. **ADOPTION AGENCIES; FEE.**

Adoption agencies may charge a fee for counseling and support services provided to adopted persons and birth parents.

Sec. 10. **REPEALER.**

Minnesota Statutes 2006, sections 259.83, subdivision 3; and 259.89, subdivisions 2, 3, 4, and 5, are repealed.

Sec. 11. **EFFECTIVE DATE.**

This article is effective July 1, 2009."

Delete the title and insert:

"A bill for an act relating to human services; changing child welfare and licensing provisions; adopting a new Interstate Compact for the Placement of Children and repealing the old compact; regulating adoptions; changing adoption records provisions; changing provisions for children in voluntary foster care for treatment; changing data privacy provisions; amending Minnesota Statutes 2006, sections 13.46, by adding subdivisions; 13.465, subdivision 8; 144.218, subdivision 1; 144.225, subdivision 2; 144.2252; 144.226, subdivision 1; 245C.24, subdivision 2; 245C.29, subdivision 2; 256.045, subdivisions 3, 3b; 259.20, subdivision 1; 259.21, by adding a subdivision; 259.22, subdivision 2; 259.23, subdivision 2; 259.43; 259.52, subdivision 2; 259.53, subdivision 3; 259.59, subdivisions 1, 2; 259.67, subdivisions 2, 3, by adding a subdivision; 259.75, subdivision 5; 259.89, subdivisions 1, 2, 4, by adding a subdivision; 260.835; 260C.001, subdivision 2; 260C.007, subdivisions 5, 6, 13; 260C.101, subdivision 2; 260C.141, subdivision 2; 260C.171, subdivision 2; 260C.178, subdivision 1; 260C.205; 260C.212, subdivisions 7, 8, by adding a subdivision; 260C.317, subdivision 4; 260C.325, subdivisions 1, 3; 524.2-114; 626.556, subdivision 7; Minnesota Statutes 2007 Supplement, sections 245C.14, subdivision 1; 245C.15, subdivisions 2, 3, 4; 245C.24, subdivision 3; 245C.27, subdivision 1; 259.41, subdivision 1; 259.57, subdivision 1; 259.67, subdivision 4; 260C.163, subdivision 1; 260C.209, subdivisions 1, 2, by adding a subdivision; 260C.212, subdivisions 1, 4; 626.556, subdivision 10a; Laws 2007, chapter 147, article 2, section 56; proposing coding for new law in Minnesota Statutes, chapters 144; 259; 260; proposing coding for new law as Minnesota Statutes, chapter 260D; repealing Minnesota Statutes 2006, sections 259.83, subdivision 3; 259.89, subdivisions 2, 3, 4, 5; 260.851; 260B.241; 260C.141, subdivision 2a; 260C.207; 260C.431; 260C.435; Minnesota Statutes 2007 Supplement, section 260C.212, subdivision 9; Minnesota Rules, parts 9560.0092; 9560.0093, subpart 2; 9560.0609."

We request the adoption of this report and repassage of the bill.

Senate Conferees: PATRICIA TORRES RAY, MEE MOUA AND BETSY L. WERGIN.

House Conferees: NEVA WALKER, JOHN LESCH AND JIM ABELER.

Walker moved that the report of the Conference Committee on S. F. No. 3166 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 3166, A bill for an act relating to human services; amending child welfare and licensing provisions; adopting a new Interstate Compact for the Placement of Children and repealing the old compact; regulating child and adult adoptions; regulating children in voluntary foster care for treatment; providing targeted case management services to certain children with developmental disabilities; providing for certain data classifications; amending Minnesota Statutes 2006, sections 13.46, by adding subdivisions; 245C.24, subdivision 2; 245C.29, subdivision 2; 256.045, subdivisions 3, 3b; 259.20, subdivision 1; 259.21, by adding a subdivision; 259.22, subdivision 2; 259.23, subdivision 2; 259.43; 259.52, subdivision 2; 259.53, subdivision 3; 259.59, subdivisions 1, 2; 259.67, subdivisions 2, 3, by adding a subdivision; 259.75, subdivision 5; 259.89, subdivisions 1, 2, 4, by adding a subdivision; 260C.001, subdivision 2; 260C.007, subdivisions 5, 6, 13; 260C.101, subdivision 2; 260C.141, subdivision 2; 260C.171, subdivision 2; 260C.178, subdivision 1; 260C.205; 260C.212, subdivisions 7, 8, by adding a subdivision; 260C.325, subdivisions 1, 3; 524.2-114; 626.556, subdivision 7; Minnesota Statutes 2007 Supplement, sections 245C.14, subdivision 1; 245C.15, subdivisions 2, 3, 4; 245C.24, subdivision 3; 245C.27, subdivision 1; 259.41, subdivision 1; 259.57, subdivision 1; 259.67, subdivision 4; 260C.163, subdivision 1; 260C.209, subdivisions 1, 2, by adding a subdivision; 260C.212, subdivisions 1, 4; 626.556, subdivision 10a; Laws 2007, chapter 147, article 2, section 56; proposing coding for new law in Minnesota Statutes, chapters 259; 260; proposing coding for new law as Minnesota Statutes, chapter 260D; repealing Minnesota Statutes 2006, sections 260.851; 260C.141, subdivision 2a; 260C.431; 260C.435; Minnesota Statutes 2007 Supplement, section 260C.212, subdivision 9; Minnesota Rules, part 9560.0609.

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 76 yeas and 55 nays as follows:

Those who voted in the affirmative were:

Abeler	Erhardt	Johnson	Madore	Ozment	Thao
Anzelc	Gardner	Juhnke	Mahoney	Paymar	Thissen
Atkins	Greiling	Kahn	Mariani	Peterson, A.	Tillberry
Bigham	Hansen	Knuth	Marquart	Peterson, S.	Tingelstad
Bly	Hausman	Koenen	Moe	Rukavina	Tschumper
Brown	Haws	Kranz	Morgan	Ruud	Wagenius
Brynaert	Hilstrom	Laine	Morrow	Sailer	Walker
Carlson	Hilty	Lenczewski	Mullery	Sertich	Wardlow
Clark	Hornstein	Lesch	Murphy, E.	Simon	Winkler
Davnie	Hortman	Liebling	Murphy, M.	Slawik	Wollschlager
Dill	Hosch	Lieder	Nelson	Slocum	Spk. Kelliher
Dominguez	Huntley	Lillie	Norton	Solberg	
Eken	Jaros	Loeffler	Olin	Swails	

Those who voted in the negative were:

Anderson, B.	DeLaForest	Finstad	Kohls	Peppin	Urdahl
Anderson, S.	Demmer	Fritz	Lanning	Peterson, N.	Ward
Beard	Dettmer	Garofalo	Magnus	Poppe	Welti
Benson	Dittrich	Gottwalt	Masin	Ruth	Westrom
Berns	Doty	Gunther	McFarlane	Scalze	Zellers
Brod	Drazkowski	Hackbarth	McNamara	Seifert	
Buesgens	Eastlund	Hamilton	Nornes	Severson	
Bunn	Emmer	Heidgerken	Olson	Shimanski	
Cornish	Erickson	Holberg	Otremba	Simpson	
Dean	Faust	Howes	Pelowski	Smith	

The bill was repassed, as amended by Conference, and its title agreed to.

Madam Speaker:

I hereby announce the passage by the Senate of the following Senate File, herewith transmitted:

S. F. No. 3281.

COLLEEN J. PACHECO, Second Assistant Secretary of the Senate

FIRST READING OF SENATE BILLS

S. F. No. 3281, A bill for an act relating to state government; creating the Veterans Health Care Advisory Council; proposing coding for new law in Minnesota Statutes, chapter 196.

The bill was read for the first time and referred to the Committee on Finance.

FISCAL CALENDAR

Pursuant to rule 1.22, Solberg requested immediate consideration of H. F. No. 2748.

H. F. No. 2748, A bill for an act relating to health; establishing oversight for rural health cooperative; requiring the administrative services unit to apportion the amount necessary to purchase medical professional liability insurance coverage and authorizing fees to be adjusted to compensate for the apportioned amount; appropriating money; amending Minnesota Statutes 2006, section 214.40, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 62R.

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 122 yeas and 9 nays as follows:

Those who voted in the affirmative were:

Abeler	Dill	Hornstein	Madore	Pelowski	Swails
Anderson, B.	Dittrich	Hortman	Magnus	Peppin	Thao
Anderson, S.	Dominguez	Hosch	Mahoney	Peterson, A.	Thissen
Anzelc	Doty	Howes	Mariani	Peterson, N.	Tillberry
Atkins	Drazkowski	Huntley	Marquart	Peterson, S.	Tingelstad
Beard	Eken	Jaros	Masin	Poppe	Tschumper
Benson	Erhardt	Johnson	McFarlane	Rukavina	Urdahl
Berns	Erickson	Juhnke	McNamara	Ruth	Wagenius
Bigham	Faust	Kahn	Moe	Ruud	Walker
Bly	Fritz	Knuth	Morgan	Sailer	Ward
Brown	Gardner	Koenen	Morrow	Scalze	Wardlow
Brynaert	Garofalo	Kohls	Mullery	Seifert	Walti
Bunn	Gottwalt	Kranz	Murphy, E.	Sertich	Westrom
Carlson	Greiling	Laine	Murphy, M.	Severson	Winkler
Clark	Gunther	Lanning	Nelson	Shimanski	Wollschlager
Cornish	Hansen	Lenczewski	Nornes	Simon	Zellers
Davnie	Hausman	Lesch	Norton	Simpson	Spk. Kelliher
Dean	Haws	Liebling	Olin	Slawik	
DeLaForest	Heidgerken	Lieder	Otremba	Slocum	
Demmer	Hilstrom	Lillie	Ozment	Smith	
Dettmer	Hilty	Loeffler	Paymar	Solberg	

Those who voted in the negative were:

Brod	Eastlund	Finstad	Hamilton	Olson
Buesgens	Emmer	Hackbarth	Holberg	

The bill was passed and its title agreed to.

FISCAL CALENDAR

Pursuant to rule 1.22, Solberg requested immediate consideration of H. F. No. 3796.

H. F. No. 3796 was reported to the House.

Hosch; Haws; Kalin; Eken; Morgan; Benson; Walti; Norton; Lillie; Murphy, E., and Ruud moved to amend H. F. No. 3796, the second engrossment, as follows:

Page 2, line 2, after "salaries" insert "and per diem"

Page 2, line 3, after "salary" insert "and per diem"

Page 2, line 9, after "salaries" insert "and per diem" in both places

Amend the title as follows:

Page 1, line 3, after "salaries" insert "and per diem"

A roll call was requested and properly seconded.

Emmer moved that H. F. No. 3796 be re-referred to the Committee on Governmental Operations, Reform, Technology and Elections.

A roll call was requested and properly seconded.

The question was taken on the Emmer motion and the roll was called. There were 48 yeas and 83 nays as follows:

Those who voted in the affirmative were:

Abeler	Dean	Finstad	Lanning	Olson	Simpson
Anderson, B.	DeLaForest	Fritz	Lenczewski	Pelowski	Smith
Anderson, S.	Demmer	Gottwalt	Magnus	Peppin	Urdahl
Beard	Dettmer	Gunther	Masin	Peterson, N.	Wardlow
Berns	Drazkowski	Hackbarth	McFarlane	Poppe	Westrom
Brod	Eastlund	Hamilton	McNamara	Ruth	Winkler
Buesgens	Emmer	Holberg	Morgan	Seifert	Wollschlager
Cornish	Erickson	Kohls	Nornes	Shimanski	Zellers

Those who voted in the negative were:

Anzelc	Doty	Hortman	Lieder	Olin	Slocum
Atkins	Eken	Hosch	Lillie	Otremba	Solberg
Benson	Erhardt	Howes	Loeffler	Ozment	Swails
Bigham	Faust	Huntley	Madore	Paymar	Thao
Bly	Gardner	Jaros	Mahoney	Peterson, A.	Thissen
Brown	Garofalo	Johnson	Mariani	Peterson, S.	Tillberry
Brynaert	Greiling	Juhnke	Marquart	Rukavina	Tingelstad
Bunn	Hansen	Kahn	Moe	Ruud	Tschumper
Carlson	Hausman	Knuth	Morrow	Sailer	Wagenius
Clark	Haws	Koenen	Mullery	Scalze	Walker
Davnie	Heidgerken	Kranz	Murphy, E.	Sertich	Ward
Dill	Hilstrom	Laine	Murphy, M.	Severson	Welti
Dittrich	Hilty	Lesch	Nelson	Simon	Spk. Kelliher
Dominguez	Hornstein	Liebling	Norton	Slawik	

The motion did not prevail.

Kohls moved to amend the Hosch et al amendment to H. F. No. 3796, the second engrossment, as follows:

Page 1, line 2, delete "and" and insert a comma and after "per diem" insert "and housing expenses"

Page 1, line 3, delete "and" and insert a comma and after "per diem" insert "and housing expenses"

Page 1, line 4, delete "and" and insert a comma and after "per diem" insert "and housing expenses"

Page 1, line 6, delete "and" and insert a comma and after "per diem" insert "and housing expenses"

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

The question recurred on the Hosch et al amendment and the roll was called. There were 73 yeas and 59 nays as follows:

Those who voted in the affirmative were:

Abeler	Eken	Hornstein	Mariani	Paymar	Thissen
Anderson, B.	Erickson	Hortman	Marquart	Peterson, N.	Tillberry
Atkins	Faust	Hosch	McFarlane	Ruth	Tschumper
Beard	Gardner	Howes	McNamara	Ruud	Urdahl
Benson	Garofalo	Johnson	Moe	Sailer	Wagenius
Bigham	Greiling	Knuth	Morgan	Scalze	Ward
Brown	Hamilton	Kranz	Morrow	Seifert	Welti
Brynaert	Hausman	Lenczewski	Mullery	Severson	Winkler
Bunn	Haws	Lieder	Murphy, E.	Simon	
Cornish	Heidgerken	Lillie	Norton	Slawik	
Demmer	Hilstrom	Loeffler	Olson	Slocum	
Dittrich	Hilty	Madore	Otremba	Smith	
Doty	Holberg	Magnus	Paulsen	Swails	

Those who voted in the negative were:

Anderson, S.	DeLaForest	Gottwalt	Laine	Ozment	Solberg
Anzelc	Dettmer	Gunther	Lanning	Pelowski	Thao
Berns	Dill	Hackbarth	Lesch	Peppin	Tingelstad
Bly	Dominguez	Hansen	Liebling	Peterson, A.	Walker
Brod	Drazkowski	Huntley	Mahoney	Peterson, S.	Wardlow
Buesgens	Eastlund	Jaros	Masin	Poppe	Westrom
Carlson	Emmer	Juhnke	Murphy, M.	Rukavina	Wollschlager
Clark	Erhardt	Kahn	Nelson	Sertich	Zellers
Davnie	Finstad	Koenen	Nornes	Shimanski	Spk. Kelliher
Dean	Fritz	Kohls	Olin	Simpson	

The motion prevailed and the amendment was adopted.

Kohls moved to amend H. F. No. 3796, the second engrossment, as amended, as follows:

Page 2, line 3, after the period, insert "The salaries prescribed by the council require legislative approval."

A roll call was requested and properly seconded.

The question was taken on the Kohls amendment and the roll was called. There were 46 yeas and 87 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	DeLaForest	Gardner	Lenczewski	Peppin	Smith
Anderson, S.	Demmer	Garofalo	Liebling	Peterson, S.	Thissen
Beard	Dettmer	Gottwalt	Magnus	Poppe	Wardlow
Berns	Drazkowski	Hackbarth	McFarlane	Ruth	Westrom
Brod	Eastlund	Hamilton	McNamara	Seifert	Winkler
Buesgens	Emmer	Holberg	Nornes	Severson	Zellers
Cornish	Erickson	Kohls	Olson	Shimanski	
Dean	Finstad	Lanning	Paulsen	Simpson	

Those who voted in the negative were:

Abeler	Doty	Hosch	Loeffler	Otremba	Swails
Anzelc	Eken	Howes	Madore	Ozment	Thao
Atkins	Erhardt	Huntley	Mahoney	Paymar	Tillberry
Benson	Faust	Jaros	Mariani	Pelowski	Tingelstad
Bigham	Fritz	Johnson	Marquart	Peterson, A.	Tschumper
Bly	Greiling	Juhnke	Masin	Peterson, N.	Urdahl
Brown	Gunther	Kahn	Moe	Rukavina	Wagenius
Brynaert	Hansen	Kalin	Morgan	Ruud	Walker
Bunn	Hausman	Knuth	Morrow	Sailer	Ward
Carlson	Haws	Koenen	Mullery	Scalze	Welti
Clark	Heidgerken	Kranz	Murphy, E.	Sertich	Wollschlager
Davnie	Hilstrom	Laine	Murphy, M.	Simon	Spk. Kelliher
Dill	Hilty	Lesch	Nelson	Slawik	
Dittrich	Hornstein	Lieder	Norton	Slocum	
Dominguez	Hortman	Lillie	Olin	Solberg	

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

Hamilton moved that H. F. No. 3796, as amended, be laid on the table.

A roll call was requested and properly seconded.

The question was taken on the Hamilton motion and the roll was called. There were 43 yeas and 90 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	DeLaForest	Gottwalt	Magnus	Poppe	Winkler
Beard	Dettmer	Hackbarth	McFarlane	Ruth	Wollschlager
Berns	Drazkowski	Hamilton	McNamara	Seifert	Zellers
Bigham	Eastlund	Holberg	Nornes	Shimanski	
Brod	Emmer	Kohls	Olson	Simpson	
Buesgens	Erickson	Lanning	Paulsen	Smith	
Cornish	Finstad	Lenczewski	Peppin	Wardlow	
Dean	Fritz	Liebling	Peterson, S.	Westrom	

Those who voted in the negative were:

Abeler	Dominguez	Hornstein	Lieder	Norton	Slawik
Anderson, S.	Doty	Hortman	Lillie	Olin	Slocum
Anzelc	Eken	Hosch	Loeffler	Otremba	Solberg
Atkins	Erhardt	Howes	Madore	Ozment	Swails
Benson	Faust	Huntley	Mahoney	Paymar	Thao
Bly	Gardner	Jaros	Mariani	Pelowski	Thissen
Brown	Garofalo	Johnson	Marquart	Peterson, A.	Tillberry
Brynaert	Greiling	Juhnke	Masin	Peterson, N.	Tingelstad
Bunn	Gunther	Kahn	Moe	Rukavina	Tschumper
Carlson	Hansen	Kalin	Morgan	Ruud	Urdahl
Clark	Hausman	Knuth	Morrow	Sailer	Wagenius
Davnie	Haws	Koenen	Mullery	Scalze	Walker
Demmer	Heidgerken	Kranz	Murphy, E.	Sertich	Ward
Dill	Hilstrom	Laine	Murphy, M.	Severson	Welti
Dittrich	Hilty	Lesch	Nelson	Simon	Spk. Kelliher

The motion did not prevail.

Olson moved to amend H. F. No. 3796, the second engrossment, as amended, as follows:

Page 2, line 3, after the period, insert "The salaries prescribed by the council require legislative approval."

Page 2, line 10, after "legislators" insert "with legislative approval"

A roll call was requested and properly seconded.

POINT OF ORDER

Howes raised a point of order pursuant to section 398, paragraph 2, of "Mason's Manual of Legislative Procedure," relating to Decisions on Amendments as Final that the Olson amendment was not in order. Speaker pro tempore Pelowski ruled the point of order not well taken and the Olson amendment in order.

The question recurred on the Olson amendment and the roll was called. There were 42 yeas and 91 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Demmer	Garofalo	Lanning	Nornes	Seifert
Anderson, S.	Drazkowski	Gottwalt	Lenczewski	Olson	Severson
Beard	Eastlund	Hackbarth	Liebling	Paulsen	Shimanski
Berns	Emmer	Hamilton	Magnus	Peppin	Smith
Brod	Erickson	Heidgerken	McFarlane	Peterson, S.	Wardlow
Buesgens	Finstad	Holberg	McNamara	Poppe	Westrom
Cornish	Gardner	Kohls	Nelson	Ruth	Zellers

Those who voted in the negative were:

Abeler	Dittrich	Hosch	Madore	Pelowski	Tillberry
Anzelc	Dominguez	Howes	Mahoney	Peterson, A.	Tingelstad
Atkins	Doty	Huntley	Mariani	Peterson, N.	Tschumper
Benson	Eken	Jaros	Marquart	Rukavina	Urdahl
Bigham	Erhardt	Johnson	Masin	Ruud	Wagenius
Bly	Faust	Juhnke	Moe	Sailer	Walker
Brown	Fritz	Kahn	Morgan	Scalze	Ward
Brynaert	Greiling	Kalin	Morrow	Sertich	Welti
Bunn	Gunther	Knuth	Mullery	Simon	Winkler
Carlson	Hansen	Koenen	Murphy, E.	Simpson	Wollschlager
Clark	Hausman	Kranz	Murphy, M.	Slawik	Spk. Kelliher
Davnie	Haws	Laine	Norton	Slocum	
Dean	Hilstrom	Lesch	Olin	Solberg	
DeLaForest	Hilty	Lieder	Otremba	Swails	
Dettmer	Hornstein	Lillie	Ozment	Thao	
Dill	Hortman	Loeffler	Paymar	Thissen	

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

Buesgens moved to amend H. F. No. 3796, the second engrossment, as amended, as follows:

Page 1, lines 2, 3, and 4 of the Hosch et al amendment adopted earlier today, delete "per diem" and insert "walking around money"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

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

H. F. No. 3796, A bill for an act relating to state government; proposing an amendment to the Minnesota Constitution, article IV, section 9; authorizing a council to establish salaries and per diem for legislators; changing the composition of the Citizen Compensation Council; amending Minnesota Statutes 2006, section 15A.082, subdivisions 1, 2, 3, 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 91 yeas and 43 nays as follows:

Those who voted in the affirmative were:

Abeler	Bly	Davnie	Erhardt	Hansen	Hortman
Anderson, S.	Brown	Demmer	Faust	Hausman	Hosch
Anzelc	Brynaert	Dill	Gardner	Haws	Howes
Atkins	Bunn	Dittrich	Garofalo	Heidgerken	Huntley
Beard	Carlson	Dominguez	Greiling	Hilstrom	Jaros
Benson	Clark	Doty	Gunther	Hilty	Johnson
Bigham	Cornish	Eken	Hamilton	Hornstein	Juhnke

Kahn	Loeffler	Morrow	Peterson, A.	Slawik	Walker
Kalin	Madore	Mullery	Peterson, N.	Slocum	Ward
Knuth	Mahoney	Murphy, E.	Rukavina	Smith	Welti
Koenen	Mariani	Norton	Ruud	Solberg	Spk. Kelliher
Kranz	Marquart	Olin	Sailer	Thao	
Laine	Masin	Otremba	Scalze	Tillberry	
Lesch	McNamara	Ozment	Sertich	Tingelstad	
Lieder	Moe	Paulsen	Severson	Urdahl	
Lillie	Morgan	Paymar	Simon	Wagenius	

Those who voted in the negative were:

Anderson, B.	Eastlund	Hoppe	Nelson	Seifert	Winkler
Berns	Emmer	Kohls	Nornes	Shimanski	Wollschlager
Brod	Erickson	Lanning	Olson	Simpson	Zellers
Buesgens	Finstad	Lenczewski	Pelowski	Swails	
Dean	Fritz	Liebling	Peppin	Thissen	
DeLaForest	Gottwalt	Magnus	Peterson, S.	Tschumper	
Dettmer	Hackbarth	McFarlane	Poppe	Wardlow	
Drazkowski	Holberg	Murphy, M.	Ruth	Westrom	

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

Dettmer was excused between the hours of 3:00 p.m. and 10:05 p.m.

FISCAL CALENDAR

Pursuant to rule 1.22, Solberg requested immediate consideration of S. F. No. 2833.

S. F. No. 2833 was reported to the House.

Thissen moved to amend S. F. No. 2833, the unofficial engrossment, as follows:

Page 3, delete section 6

Page 4, line 23, delete everything after the period

Page 4, delete lines 24 and 25

Page 10, before line 1, insert:

"Sec. 11. **STUDIES.**

Subdivision 1. **Report.** By January 15, 2009, the commissioner of health shall report to the chairs and ranking minority members of the legislative committees and divisions having jurisdiction over the regulation of public pools and spas: the number of public pools and spas under license in the state of Minnesota, the type of ownership of

public pools under license in the state, the type of drains at all licensed public pools and spas as reported by owners or licensees, and the number of pools and spas that required drain modification due to this act. This report shall include the estimated economic impact and costs of the installation of a second main drain and cover.

Subd. 2. **Stakeholder group.** The commissioner of health shall convene a group of stakeholders to address the exception for public swimming ponds, under Minnesota Statutes, section 144.1222, subdivision 5, and make recommendations to the legislature by December 15, 2010."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

S. F. No. 2833, A bill for an act relating to health; requiring public pools and spas to be equipped with anti-entrapment devices or systems; appropriating money; amending Minnesota Statutes 2006, sections 144.1222, subdivision 1a, by adding subdivisions; 157.16, as amended; 157.20, subdivisions 1, 2a.

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 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dittrich	Hilstrom	Lieder	Ozment	Solberg
Anderson, B.	Dominguez	Hilty	Lillie	Paulsen	Swails
Anderson, S.	Doty	Holberg	Loeffler	Paymar	Thao
Anzelc	Drazkowski	Hoppe	Madore	Pelowski	Thissen
Atkins	Eastlund	Hornstein	Magnus	Peppin	Tillberry
Beard	Eken	Hortman	Mahoney	Peterson, A.	Tingelstad
Benson	Emmer	Hosch	Mariani	Peterson, N.	Tschumper
Berns	Erhardt	Howes	Marquart	Peterson, S.	Urdahl
Bigham	Erickson	Huntley	Masin	Poppe	Wagenius
Bly	Faust	Jaros	McFarlane	Rukavina	Walker
Brod	Finstad	Johnson	McNamara	Ruth	Ward
Brown	Fritz	Juhnke	Moe	Ruud	Wardlow
Brynaert	Gardner	Kahn	Morgan	Sailer	Welti
Buesgens	Garofalo	Kalin	Morrow	Scalze	Westrom
Bunn	Gottwalt	Knuth	Mullery	Seifert	Winkler
Carlson	Greiling	Koenen	Murphy, E.	Sertich	Wollschlager
Clark	Gunther	Kohls	Murphy, M.	Severson	Zellers
Cornish	Hackbarth	Kranz	Nelson	Shimanski	Spk. Kelliher
Davnie	Hamilton	Laine	Nornes	Simon	
Dean	Hansen	Lanning	Norton	Simpson	
DeLaForest	Hausman	Lenczewski	Olin	Slawik	
Demmer	Haws	Lesch	Olson	Slocum	
Dill	Heidgerken	Liebling	Otremba	Smith	

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

ANNOUNCEMENTS BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on S. F. No. 2651:

Dill, Wagenius, Thao, Moe and McNamara.

The Speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 3420:

Hilstrom, Pelowski and Smith.

REPORT FROM THE COMMITTEE ON RULES AND
LEGISLATIVE ADMINISTRATION

Sertich from the Committee on Rules and Legislative Administration, pursuant to rule 1.21, designated the following bills to be placed on the Supplemental Calendar for the Day for Monday, May 12, 2008:

H. F. Nos. 1875, 4072 and 3301; S. F. Nos. 3203 and 3370; H. F. No. 2554; and S. F. No. 1605.

CALENDAR FOR THE DAY

H. F. No. 1875, A bill for an act relating to health; modifying board of directors for comprehensive health association; amending Minnesota Statutes 2006, section 62E.10, subdivision 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 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Cornish	Fritz	Hortman	Liebling	Murphy, M.
Anderson, B.	Davnie	Gardner	Hosch	Lieder	Nelson
Anderson, S.	Dean	Garofalo	Howes	Lillie	Nornes
Anzelc	DeLaForest	Gottwalt	Huntley	Loeffler	Norton
Atkins	Demmer	Greiling	Jaros	Madore	Olin
Beard	Dill	Gunther	Johnson	Magnus	Olson
Benson	Dittrich	Hackbarth	Juhnke	Mahoney	Otremba
Berns	Dominguez	Hamilton	Kahn	Mariani	Ozment
Bigham	Doty	Hansen	Kalin	Marquart	Paulsen
Bly	Drazkowski	Hausman	Knuth	Masin	Paymar
Brod	Eastlund	Haws	Koenen	McFarlane	Pelowski
Brown	Eken	Heidgerken	Kohls	McNamara	Peppin
Brynaert	Emmer	Hilstrom	Kranz	Moe	Peterson, A.
Buesgens	Erhardt	Hilty	Laine	Morgan	Peterson, N.
Bunn	Erickson	Holberg	Lanning	Morrow	Peterson, S.
Carlson	Faust	Hoppe	Lenczewski	Mullery	Poppe
Clark	Finstad	Hornstein	Lesch	Murphy, E.	Rukavina

Ruth	Severson	Smith	Tingelstad	Wardlow	Spk. Kelliher
Ruud	Shimanski	Solberg	Tschumper	Walti	
Sailer	Simon	Swails	Urdahl	Westrom	
Scalze	Simpson	Thao	Wagenius	Winkler	
Seifert	Slawik	Thissen	Walker	Wollschlager	
Sertich	Slocum	Tillberry	Ward	Zellers	

The bill was passed and its title agreed to.

H. F. No. 4072 was reported to the House.

H. F. No. 4072 was read for the third time.

POINT OF ORDER

Buesgens raised a point of order pursuant to rule 4.03 relating to Ways and Means Committee; Budget Resolution; Effect on Expenditure and Revenue Bills. Speaker pro tempore Pelowski ruled the point of order not well taken.

H. F. No. 4072, A bill for an act relating to capital improvements; appropriating money for asset preservation at the University of Minnesota and Minnesota State Colleges and Universities; authorizing the sale and issuance of state bonds.

The bill was placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 95 yeas and 38 nays as follows:

Those who voted in the affirmative were:

Abeler	Eken	Jaros	Mahoney	Ozment	Smith
Anzelc	Erhardt	Johnson	Mariani	Paymar	Solberg
Atkins	Faust	Juhnke	Marquart	Pelowski	Swails
Beard	Fritz	Kahn	Masin	Peterson, A.	Thao
Benson	Gardner	Kalin	McFarlane	Peterson, N.	Thissen
Bigham	Garofalo	Knuth	McNamara	Peterson, S.	Tillberry
Bly	Greiling	Koenen	Moe	Poppe	Tingelstad
Brynaert	Hansen	Kranz	Morgan	Rukavina	Tschumper
Bunn	Hausman	Laine	Morrow	Ruth	Wagenius
Carlson	Haws	Lenczewski	Mullery	Ruud	Walker
Clark	Hilstrom	Lesch	Murphy, E.	Sailer	Ward
Davnie	Hilty	Liebling	Murphy, M.	Scalze	Walti
Dill	Hornstein	Lieder	Nelson	Sertich	Winkler
Dittrich	Hortman	Lillie	Norton	Simon	Wollschlager
Dominguez	Hosch	Loeffler	Olin	Slawik	Spk. Kelliher
Doty	Huntley	Madore	Otremba	Slocum	

Those who voted in the negative were:

Anderson, B.	Brod	Cornish	Demmer	Emmer	Gottwalt
Anderson, S.	Brown	Dean	Draskowski	Erickson	Gunther
Berns	Buesgens	DeLaForest	Eastlund	Finstad	Hackbarth

Hamilton	Howes	Nornes	Seifert	Urdahl
Heidgerken	Kohls	Olson	Severson	Wardlow
Holberg	Lanning	Paulsen	Shimanski	Westrom
Hoppe	Magnus	Peppin	Simpson	Zellers

The bill was passed and its title agreed to.

The following Conference Committee Report was received:

CONFERENCE COMMITTEE REPORT ON H. F. NO. 3222

A bill for an act relating to human services; amending health care services provisions; making changes to general assistance medical care, medical assistance, and MinnesotaCare; modifying claims, liens, and treatment of assets; establishing a statewide information exchange; amending Minnesota Statutes 2006, sections 256B.056, subdivisions 2, 4a, 11, by adding a subdivision; 256B.057, subdivision 1; 256B.0571, subdivisions 8, 9, 15, by adding a subdivision; 256B.058; 256B.059, subdivisions 1, 1a; 256B.0594; 256B.0595, subdivisions 1, 2, 3, 4, by adding subdivisions; 256B.0625, subdivision 13g; 256B.075, subdivision 2; 256B.15, subdivision 4; 256B.69, subdivisions 6, 27; 524.3-803; Minnesota Statutes 2007 Supplement, sections 256B.055, subdivision 14; 256B.0625, subdivision 49; 256D.03, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 256B.

May 7, 2008

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 3222 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. 3222 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

HEALTH CARE

Section 1. Minnesota Statutes 2006, section 125A.02, subdivision 1, is amended to read:

Subdivision 1. **Child with a disability.** Every child who has a hearing impairment, blindness, visual disability, speech or language impairment, physical disability, other health impairment, mental disability, emotional/behavioral disorder, specific learning disability, autism, traumatic brain injury, multiple disabilities, or deaf/blind disability and needs special instruction and services, as determined by the standards of the commissioner, is a child with a disability. A licensed physician, an advanced practice nurse, or a licensed psychologist is qualified to make a diagnosis and determination of attention deficit disorder or attention deficit hyperactivity disorder for purposes of

identifying a child with a disability. In addition, every child under age three, and at local district discretion from age three to age seven, who needs special instruction and services, as determined by the standards of the commissioner, because the child has a substantial delay or has an identifiable physical or mental condition known to hinder normal development is a child with a disability.

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

Sec. 2. Minnesota Statutes 2006, section 144A.45, subdivision 1, is amended to read:

Subdivision 1. **Rules.** The commissioner shall adopt rules for the regulation of home care providers pursuant to sections 144A.43 to 144A.47. The rules shall include the following:

~~(a)~~ (1) provisions to assure, to the extent possible, the health, safety and well-being, and appropriate treatment of persons who receive home care services;

~~(b)~~ (2) requirements that home care providers furnish the commissioner with specified information necessary to implement sections 144A.43 to 144A.47;

~~(c)~~ (3) standards of training of home care provider personnel, which may vary according to the nature of the services provided or the health status of the consumer;

~~(d)~~ (4) standards for medication management which may vary according to the nature of the services provided, the setting in which the services are provided, or the status of the consumer. Medication management includes the central storage, handling, distribution, and administration of medications;

~~(e)~~ (5) standards for supervision of home care services requiring supervision by a registered nurse or other appropriate health care professional which must occur on site at least every 62 days, or more frequently if indicated by a clinical assessment, and in accordance with sections 148.171 to 148.285 and rules adopted thereunder, except that, notwithstanding the provisions of Minnesota Rules, part 4668.0110, subpart 5, item B, supervision of a person performing home care aide tasks for a class B licensee providing paraprofessional services must occur only every 180 days, or more frequently if indicated by a clinical assessment;

~~(f)~~ (6) standards for client evaluation or assessment which may vary according to the nature of the services provided or the status of the consumer;

~~(g)~~ (7) requirements for the involvement of a consumer's physician, the documentation of physicians' orders, if required, and the consumer's treatment plan, and the maintenance of accurate, current clinical records;

~~(h)~~ (8) the establishment of different classes of licenses for different types of providers and different standards and requirements for different kinds of home care services; and

~~(i)~~ (9) operating procedures required to implement the home care bill of rights.

Sec. 3. Minnesota Statutes 2006, section 144A.45, is amended by adding a subdivision to read:

Subd. 1a. **Home care aide tasks.** Notwithstanding the provisions of Minnesota Rules, part 4668.0110, subpart 1, item E, home care aide tasks also include assisting toileting, transfers, and ambulation if the client is ambulatory and if the client has no serious acute illness or infectious disease.

Sec. 4. **[145.1622] POLICY FOR NOTIFICATION OF DISPOSITION OPTIONS.**

Hospitals, clinics, and medical facilities must have in place by January 15, 2009, a policy for informing a woman of available options for fetal disposition when the woman experiences a miscarriage or is expected to experience a miscarriage.

Sec. 5. Minnesota Statutes 2006, section 150A.06, is amended by adding a subdivision to read:

Subd. 9. **Graduates of nonaccredited dental programs.** A graduate of a nonaccredited dental program who successfully completes the clinical licensure examination, and meets all other applicant requirements of the board shall be licensed to practice dentistry and granted a limited general dentist license by the board. The board shall place limitations on the licensee's authority to practice by requiring the licensee to practice under the general supervision of a Minnesota-licensed dentist approved by the board. A person licensed under this subdivision must practice for three consecutive years in Minnesota pursuant to a written agreement, approved by the board, between the licensee and a Minnesota-licensed dentist who may limit the types of services authorized. At the conclusion of the three-year period, the board shall grant an unlimited license without further restrictions if all supervising dentists who had entered into written agreements with the licensee during any part of the three-year period recommend unlimited licensure, and if no corrective action or disciplinary action has been taken by the board against the licensee.

Sec. 6. Minnesota Statutes 2006, section 214.40, is amended by adding a subdivision to read:

Subd. 8. **Fee adjustment.** The administrative services unit shall apportion between the Board of Medical Practice, the Board of Dentistry, and the Board of Nursing an amount to be raised through fees by the respective board. The amount apportioned to each board shall be the total amount expended on medical professional liability insurance coverage purchased for the providers regulated by the respective board. The respective board may adjust the fees which the board is required to collect to compensate for the amount apportioned to the board by the administrative services unit.

Sec. 7. Minnesota Statutes 2006, section 256.01, is amended by adding a subdivision to read:

Subd. 27. **Statewide health information exchange.** (a) The commissioner has the authority to join and participate as a member in a legal entity developing and operating a statewide health information exchange that shall meet the following criteria:

(1) the legal entity must meet all constitutional and statutory requirements to allow the commissioner to participate; and

(2) the commissioner or the commissioner's designated representative must have the right to participate in the governance of the legal entity under the same terms and conditions and subject to the same requirements as any other member in the legal entity and in that role shall act to advance state interests and lessen the burdens of government.

(b) Notwithstanding chapter 16C, the commissioner may pay the state's prorated share of development-related expenses of the legal entity retroactively from October 29, 2007, regardless of the date the commissioner joins the legal entity as a member.

Sec. 8. Minnesota Statutes 2007 Supplement, section 256B.055, subdivision 14, is amended to read:

Subd. 14. **Persons detained by law.** (a) Medical assistance may be paid for an inmate of a correctional facility who is conditionally released as authorized under section 241.26, 244.065, or 631.425, if the individual does not require the security of a public detention facility and is housed in a halfway house or community correction center, or under house arrest and monitored by electronic surveillance in a residence approved by the commissioner of corrections, and if the individual meets the other eligibility requirements of this chapter.

(b) An individual who is enrolled in medical assistance, and who is charged with a crime and incarcerated for less than 12 months shall be suspended from eligibility at the time of incarceration until the individual is released. Upon release, medical assistance eligibility is reinstated without reapplication using a reinstatement process and form, if the individual is otherwise eligible.

(c) An individual, regardless of age, who is considered an inmate of a public institution as defined in Code of Federal Regulations, title 42, section ~~435.1009~~ 435.1010, is not eligible for medical assistance.

Sec. 9. Minnesota Statutes 2006, section 256B.056, subdivision 2, is amended to read:

Subd. 2. **Homestead exclusion and homestead equity limit for institutionalized persons residing in a long-term care facility.** ~~(a)~~ The homestead shall be excluded for the first six calendar months of a person's stay in a long-term care facility and shall continue to be excluded for as long as the recipient can be reasonably expected to return to the homestead. For purposes of this subdivision, "reasonably expected to return to the homestead" means the recipient's attending physician has certified that the expectation is reasonable, and the recipient can show that the cost of care upon returning home will be met through medical assistance or other sources. The homestead shall continue to be excluded for persons residing in a long-term care facility if it is used as a primary residence by one of the following individuals:

(1) the spouse;

(2) a child under age 21;

(3) a child of any age who is blind or permanently and totally disabled as defined in the supplemental security income program;

(4) a sibling who has equity interest in the home and who resided in the home for at least one year immediately before the date of the person's admission to the facility; or

(5) a child of any age, or, ~~subject to federal approval,~~ a grandchild of any age, who resided in the home for at least two years immediately before the date of the person's admission to the facility, and who provided care to the person that permitted the person to reside at home rather than in an institution.

~~(b) Effective for applications filed on or after July 1, 2006, and for renewals after July 1, 2006, for persons who first applied for payment of long-term care services on or after January 2, 2006, the equity interest in the homestead of an individual whose eligibility for long-term care services is determined on or after January 1, 2006, shall not exceed \$500,000, unless it is the lawful residence of the individual's spouse or child who is under age 21, blind, or disabled. The amount specified in this paragraph shall be increased beginning in year 2011, from year to year based on the percentage increase in the Consumer Price Index for all urban consumers (all items; United States city average), rounded to the nearest \$1,000. This provision may be waived in the case of demonstrated hardship by a process to be determined by the secretary of health and human services pursuant to section 6014 of the Deficit Reduction Act of 2005, Public Law 109-171.~~

Sec. 10. Minnesota Statutes 2006, section 256B.056, is amended by adding a subdivision to read:

Subd. 2a. **Home equity limit for medical assistance payment of long-term care services.** (a) Effective for requests of medical assistance payment of long-term care services filed on or after July 1, 2006, and for renewals on or after July 1, 2006, for persons who received payment of long-term care services under a request filed on or after January 1, 2006, the equity interest in the home of a person whose eligibility for long-term care services is determined on or after January 1, 2006, shall not exceed \$500,000, unless it is the lawful residence of the person's spouse or child who is under age 21, or a child of any age who is blind or permanently and totally disabled as

defined in the Supplemental Security Income program. The amount specified in this paragraph shall be increased beginning in year 2011, from year to year based on the percentage increase in the Consumer Price Index for all urban consumers (all items; United States city average), rounded to the nearest \$1,000.

(b) For purposes of this subdivision, a "home" means any real or personal property interest, including an interest in an agricultural homestead as defined under section 273.124, subdivision 1, that, at the time of the request for medical assistance payment of long-term care services, is the primary dwelling of the person or was the primary dwelling of the person before receipt of long-term care services began outside of the home.

(c) A person denied or terminated from medical assistance payment of long-term care services because the person's home equity exceeds the home equity limit may seek a waiver based upon a hardship by filing a written request with the county agency. Hardship is an imminent threat to the person's health and well-being that is demonstrated by documentation of no alternatives for payment of long-term care services. The county agency shall make a decision regarding the written request to waive the home equity limit within 30 days if all necessary information has been provided. The county agency shall send the person and the person's representative a written notice of decision on the request for a demonstrated hardship waiver that also advises the person of appeal rights under the fair hearing process of section 256.045.

Sec. 11. Minnesota Statutes 2006, section 256B.056, subdivision 4a, is amended to read:

Subd. 4a. **Asset verification.** For purposes of verification, the value of an individual is not required to make a good faith effort to sell a life estate that is not excluded under subdivision 2 and the life estate shall be considered deemed not salable unless the owner of the remainder interest intends to purchase the life estate, or the owner of the life estate and the owner of the remainder sell the entire property. This subdivision applies only for the purpose of determining eligibility for medical assistance, and does not apply to the valuation of assets owned by either the institutional spouse or the community spouse under section 256B.059, subdivision 2.

Sec. 12. Minnesota Statutes 2006, section 256B.056, subdivision 11, is amended to read:

Subd. 11. **Treatment of annuities.** (a) Any individual applying for or seeking recertification of eligibility for person requesting medical assistance payment of long-term care services shall provide a complete description of any interest either the individual person or the individual's person's spouse has in annuities on a form designated by the department. The form shall include a statement that the state becomes a preferred remainder beneficiary of annuities or similar financial instruments by virtue of the receipt of medical assistance payment of long-term care services. The individual person and the individual's person's spouse shall furnish the agency responsible for determining eligibility with complete current copies of their annuities and related documents for review as part of the application process on disclosure forms provided by the department as part of their application and complete the form designating the state as the preferred remainder beneficiary for each annuity in which the person or the person's spouse has an interest.

(b) The disclosure form shall include a statement that the department becomes the remainder beneficiary under the annuity or similar financial instrument by virtue of the receipt of medical assistance. The disclosure form department shall include a provide notice to the issuer of the department's right under this section as a preferred remainder beneficiary under the annuity or similar financial instrument for medical assistance furnished to the individual person or the individual's person's spouse, and require the issuer to provide confirmation that a remainder beneficiary designation has been made and to notify the county agency when there is a change in the amount of the income or principal being withdrawn from the annuity or other similar financial instrument at the time of the most recent disclosure required under this section. The individual and the individual's spouse shall execute separate disclosure forms for each annuity or similar financial instrument that they are required to disclose under this section and in which they have an interest provide notice of the issuer's responsibilities as provided in paragraph (c).

(c) An issuer of an annuity or similar financial instrument who receives notice ~~on a disclosure form~~ of the state's right to be named a preferred remainder beneficiary as described in paragraph (b) shall provide confirmation to the requesting agency that ~~a remainder beneficiary designating~~ the state has been made ~~and a preferred remainder beneficiary~~. The issuer shall also notify the county agency when ~~there is~~ a change in the amount of income or principal being withdrawn from the annuity or other similar financial instrument ~~or a change in the state's preferred remainder beneficiary designation under the annuity or other similar financial instrument occurs~~. The county agency shall provide the issuer with the name, address, and telephone number of a unit within the department that the issuer can contact to comply with this paragraph.

(d) "Preferred remainder beneficiary" for purposes of this subdivision and sections 256B.0594 and 256B.0595 means the state is a remainder beneficiary in the first position in an amount equal to the amount of medical assistance paid on behalf of the institutionalized person, or is a remainder beneficiary in the second position if the institutionalized person designates and is survived by a remainder beneficiary who is (1) a spouse who does not reside in a medical institution, (2) a minor child, or (3) a child of any age who is blind or permanently and totally disabled as defined in the Supplemental Security Income program. Notwithstanding this paragraph, the state is the remainder beneficiary in the first position if the spouse or child disposes of the remainder for less than fair market value.

(e) For purposes of this subdivision, "institutionalized person" and "long-term care services" have the meanings given in section 256B.0595, subdivision 1, paragraph (h).

(f) For purposes of this subdivision, "medical institution" means a skilled nursing facility, intermediate care facility, intermediate care facility for persons with developmental disabilities, nursing facility, or inpatient hospital.

Sec. 13. Minnesota Statutes 2006, section 256B.057, subdivision 1, is amended to read:

Subdivision 1. **Infants and pregnant women.** (a)(1) An infant less than one year of age or a pregnant woman who has written verification of a positive pregnancy test from a physician or licensed registered nurse is eligible for medical assistance if countable family income is equal to or less than 275 percent of the federal poverty guideline for the same family size. ~~A pregnant woman who has written verification of a positive pregnancy test from a physician or licensed registered nurse is eligible for medical assistance if countable family income is equal to or less than 200 percent of the federal poverty guideline for the same family size.~~ For purposes of this subdivision, "countable family income" means the amount of income considered available using the methodology of the AFDC program under the state's AFDC plan as of July 16, 1996, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104-193, except for the earned income disregard and employment deductions.

(2) For applications processed within one calendar month prior to the effective date, eligibility shall be determined by applying the income standards and methodologies in effect prior to the effective date for any months in the six-month budget period before that date and the income standards and methodologies in effect on the effective date for any months in the six-month budget period on or after that date. The income standards for each month shall be added together and compared to the applicant's total countable income for the six-month budget period to determine eligibility.

(b)(1) [Expired, 1Sp2003 c 14 art 12 s 19]

(2) For applications processed within one calendar month prior to July 1, 2003, eligibility shall be determined by applying the income standards and methodologies in effect prior to July 1, 2003, for any months in the six-month budget period before July 1, 2003, and the income standards and methodologies in effect on the expiration date for any months in the six-month budget period on or after July 1, 2003. The income standards for each month shall be added together and compared to the applicant's total countable income for the six-month budget period to determine eligibility.

(3) An amount equal to the amount of earned income exceeding 275 percent of the federal poverty guideline, up to a maximum of the amount by which the combined total of 185 percent of the federal poverty guideline plus the earned income disregards and deductions allowed under the state's AFDC plan as of July 16, 1996, as required by the Personal Responsibility and Work Opportunity Act of 1996 (PRWORA), Public Law 104-193, exceeds 275 percent of the federal poverty guideline will be deducted for pregnant women and infants less than one year of age.

(c) Dependent care and child support paid under court order shall be deducted from the countable income of pregnant women.

(d) An infant born on or after January 1, 1991, to a woman who was eligible for and receiving medical assistance on the date of the child's birth shall continue to be eligible for medical assistance without redetermination until the child's first birthday, as long as the child remains in the woman's household.

Sec. 14. Minnesota Statutes 2006, section 256B.0571, subdivision 6, is amended to read:

Subd. 6. **Partnership policy.** "Partnership policy" means a long-term care insurance policy that meets the requirements under subdivision 10 and was issued on or after the effective date of the state plan amendment implementing the partnership program in Minnesota. Policies that are exchanged or that have riders or endorsements added on or after the effective date of the state plan amendment as authorized by the commissioner of commerce qualify as a partnership policy.

Sec. 15. Minnesota Statutes 2006, section 256B.0571, subdivision 8, is amended to read:

Subd. 8. **Program established.** (a) The commissioner, in cooperation with the commissioner of commerce, shall establish the Minnesota partnership for long-term care program to provide for the financing of long-term care through a combination of private insurance and medical assistance.

(b) An individual who meets the requirements in this paragraph is eligible to participate in the partnership program. The individual must:

(1) meet one of the following criteria:

(i) be a beneficiary of, and a Minnesota resident at the time coverage first became effective under the a partnership policy;

(2) be a beneficiary of a partnership policy that (i) either is issued on or after the effective date of the state plan amendment implementing the partnership program in Minnesota, or (ii) qualifies as a partnership policy under the provisions of subdivision 8a as authorized by the commissioner of commerce under subdivision 6; and or

(ii) be a beneficiary of a policy recognized under subdivision 17; and

~~(3)~~ (2) have exhausted all of the benefits under the partnership policy as described in this section. Benefits received under a long-term care insurance policy before July 1, 2006, do not count toward the exhaustion of benefits required in this subdivision.

Sec. 16. Minnesota Statutes 2006, section 256B.0571, subdivision 9, is amended to read:

Subd. 9. **Medical assistance eligibility.** (a) Upon ~~application request~~ for medical assistance program payment of long-term care services by an individual who meets the requirements described in subdivision 8, the commissioner shall determine the individual's eligibility for medical assistance according to paragraphs (b) to (i).

(b) After determining assets subject to the asset limit under section 256B.056, subdivision 3 or 3c, or 256B.057, subdivision 9 or 10, the commissioner shall allow the individual to designate assets to be protected from recovery under subdivisions 13 and 15 up to the dollar amount of the benefits utilized under the partnership policy. Designated assets shall be disregarded for purposes of determining eligibility for payment of long-term care services.

(c) The individual shall identify the designated assets and the full fair market value of those assets and designate them as assets to be protected at the time of initial application for medical assistance. The full fair market value of real property or interests in real property shall be based on the most recent full assessed value for property tax purposes for the real property, unless the individual provides a complete professional appraisal by a licensed appraiser to establish the full fair market value. The extent of a life estate in real property shall be determined using the life estate table in the health care program's manual. Ownership of any asset in joint tenancy shall be treated as ownership as tenants in common for purposes of its designation as a disregarded asset. The unprotected value of any protected asset is subject to estate recovery according to subdivisions 13 and 15.

(d) The right to designate assets to be protected is personal to the individual and ends when the individual dies, except as otherwise provided in subdivisions 13 and 15. It does not include the increase in the value of the protected asset and the income, dividends, or profits from the asset. It may be exercised by the individual or by anyone with the legal authority to do so on the individual's behalf. It shall not be sold, assigned, transferred, or given away.

(e) If the dollar amount of the benefits utilized under a partnership policy is greater than the full fair market value of all assets protected at the time of the application for medical assistance long-term care services, the individual may designate additional assets that become available during the individual's lifetime for protection under this section. The individual must make the designation in writing ~~to the county agency no later than the last date on which the individual must report a change in circumstances to the county agency, as provided for under the medical assistance program~~ ten days from the date the designation is requested by the county agency. Any excess used for this purpose shall not be available to the individual's estate to protect assets in the estate from recovery under section 256B.15 or 524.3-1202, or otherwise.

(f) This section applies only to estate recovery under United States Code, title 42, section 1396p, subsections (a) and (b), and does not apply to recovery authorized by other provisions of federal law, including, but not limited to, recovery from trusts under United States Code, title 42, section 1396p, subsection (d)(4)(A) and (C), or to recovery from annuities, or similar legal instruments, subject to section 6012, subsections (a) and (b), of the Deficit Reduction Act of 2005, Public Law 109-171.

(g) An individual's protected assets owned by the individual's spouse who applies for payment of medical assistance long-term care services shall not be protected assets or disregarded for purposes of eligibility of the individual's spouse solely because they were protected assets of the individual.

(h) Assets designated under this subdivision shall not be subject to penalty under section 256B.0595.

(i) The commissioner shall otherwise determine the individual's eligibility for payment of long-term care services according to medical assistance eligibility requirements.

Sec. 17. Minnesota Statutes 2006, section 256B.0571, subdivision 15, is amended to read:

Subd. 15. **Limitation on liens.** (a) An individual's interest in real property shall not be subject to a medical assistance lien under sections 514.980 to 514.985 or a notice of potential claim lien arising under section 256B.15 while and to the extent it is protected under subdivision 9. An individual's interest in real property that exceeds the value protected under subdivision 9 is subject to a lien for recovery.

(b) Medical assistance liens under sections 514.980 to 514.985 or liens arising under ~~notices of potential claims~~ section 256B.15 against an individual's interests in real property in the individual's estate that are designated as protected under subdivision 13, paragraph (b), shall be released to the extent of the dollar value of the protection applied to the interest.

(c) If an interest in real property is protected from a lien for recovery of medical assistance paid on behalf of the individual under paragraph (a) or (b), no lien for recovery of medical assistance paid on behalf of that individual shall be filed against the protected interest in real property after it is distributed to the individual's heirs or devisees.

Sec. 18. Minnesota Statutes 2006, section 256B.0571, is amended by adding a subdivision to read:

Subd. 17. **Reciprocal agreements.** The commissioner may enter into an agreement with any other state with a partnership program under United States Code, title 42, section 1396p(b)(1)(C), for reciprocal recognition of qualified long-term care insurance policies purchased under each state's partnership program. The commissioner shall notify the secretary of the United States Department of Health and Human Services if the commissioner declines to enter into a national reciprocal agreement.

Sec. 19. Minnesota Statutes 2006, section 256B.058, is amended to read:

256B.058 TREATMENT OF INCOME OF INSTITUTIONALIZED SPOUSE.

Subdivision 1. **Income not available.** The income described in subdivisions 2 and 3 shall be deducted from an institutionalized spouse's monthly income and is not considered available for payment of the monthly costs of an institutionalized ~~person in the institution spouse~~ spouse after ~~the person has been~~ the institutionalized spouse has been determined eligible for medical assistance.

Subd. 2. **Monthly income allowance for community spouse.** (a) For an institutionalized spouse ~~with a spouse residing in the community~~, monthly income may be allocated to the community spouse as a monthly income allowance for the community spouse. Beginning with the first full calendar month the institutionalized spouse is in the institution, the monthly income allowance is not considered available to the institutionalized spouse for monthly payment of costs of care in the institution as long as the income is made available to the community spouse.

(b) The monthly income allowance is the amount by which the community spouse's monthly maintenance needs allowance under paragraphs (c) and (d) exceeds the amount of monthly income otherwise available to the community spouse.

(c) The community spouse's monthly maintenance needs allowance is the lesser of \$1,500 or 122 percent of the monthly federal poverty guideline for a family of two plus an excess shelter allowance. The excess shelter allowance is for the amount of shelter expenses that exceed 30 percent of 122 percent of the federal poverty guideline line for a family of two. Shelter expenses are the community spouse's expenses for rent, mortgage payments including principal and interest, taxes, insurance, required maintenance charges for a cooperative or condominium that is the community spouse's principal residence, and the standard utility allowance under section 5(e) of the federal Food Stamp Act of 1977. If the community spouse has a required maintenance charge for a cooperative or condominium, the standard utility allowance must be reduced by the amount of utility expenses included in the required maintenance charge.

If the community or institutionalized spouse establishes that the community spouse needs income greater than the monthly maintenance needs allowance determined in this paragraph due to exceptional circumstances resulting in significant financial duress, the monthly maintenance needs allowance may be increased to an amount that provides needed additional income.

(d) The percentage of the federal poverty guideline used to determine the monthly maintenance needs allowance in paragraph (c) is increased to 133 percent on July 1, 1991, and to 150 percent on July 1, 1992. Adjustments in the income limits due to annual changes in the federal poverty guidelines shall be implemented the first day of July following publication of the annual changes. The \$1,500 maximum must be adjusted January 1, 1990, and every January 1 after that by the same percentage increase in the Consumer Price Index for all urban consumers (all items; United States city average) between the two previous Septembers.

(e) If a court has entered an order against an institutionalized spouse for monthly income for support of the community spouse, the community spouse's monthly income allowance under this subdivision shall not be less than the amount of the monthly income ordered.

Subd. 3. **Family allowance.** (a) A family allowance determined under paragraph (b) is not considered available to the institutionalized spouse for monthly payment of costs of care in the institution.

(b) The family allowance is equal to one-third of the amount by which 122 percent of the monthly federal poverty guideline for a family of two exceeds the monthly income for that family member.

(c) For purposes of this subdivision, the term family member only includes a minor or dependent child as defined in the Internal Revenue Code, dependent parent, or dependent sibling of the institutionalized or community spouse if the sibling resides with the community spouse.

(d) The percentage of the federal poverty guideline used to determine the family allowance in paragraph (b) is increased to 133 percent on July 1, 1991, and to 150 percent on July 1, 1992. Adjustments in the income limits due to annual changes in the federal poverty guidelines shall be implemented the first day of July following publication of the annual changes.

Subd. 4. **Treatment of income.** (a) No income of the community spouse will be considered available to an eligible institutionalized spouse, beginning the first full calendar month of institutionalization, except as provided in this subdivision.

(b) In determining the income of an institutionalized spouse or community spouse, after the institutionalized spouse has been determined eligible for medical assistance, the following rules apply.

(1) For income that is not from a trust, availability is determined according to items (i) to (v), unless the instrument providing the income otherwise specifically provides:

(i) if payment is made solely in the name of one spouse, the income is considered available only to that spouse;

(ii) if payment is made in the names of both spouses, one-half of the income is considered available to each;

(iii) if payment is made in the names of one or both spouses together with one or more other persons, the income is considered available to each spouse according to the spouse's interest, or one-half of the joint interest is considered available to each spouse if each spouse's interest is not specified;

(iv) if there is no instrument that establishes ownership, one-half of the income is considered available to each spouse; and

(v) either spouse may rebut the determination of availability of income by showing by a preponderance of the evidence that ownership interests are different than provided above.

(2) For income from a trust, income is considered available to each spouse as provided in the trust. If the trust does not specify an amount available to either or both spouses, availability will be determined according to items (i) to (iii):

(i) if payment of income is made only to one spouse, the income is considered available only to that spouse;

(ii) if payment of income is made to both spouses, one-half is considered available to each; and

(iii) if payment is made to either or both spouses and one or more other persons, the income is considered available to each spouse in proportion to each spouse's interest, or if no such interest is specified, one-half of the joint interest is considered available to each spouse.

Sec. 20. Minnesota Statutes 2006, section 256B.059, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For purposes of this section and ~~section~~ sections 256B.058 and 256B.0595, the terms defined in this subdivision have the meanings given them.

(b) "Community spouse" means the spouse of an institutionalized spouse.

(c) "Spousal share" means one-half of the total value of all assets, to the extent that either the institutionalized spouse or the community spouse had an ownership interest at the time of the first continuous period of institutionalization.

(d) "Assets otherwise available to the community spouse" means assets individually or jointly owned by the community spouse, other than assets excluded by subdivision 5, paragraph (c).

(e) "Community spouse asset allowance" is the value of assets that can be transferred under subdivision 3.

(f) "Institutionalized spouse" means a person who is:

(1) in a hospital, nursing facility, or intermediate care facility for persons with developmental disabilities, or receiving home and community-based services under section 256B.0915 ~~or 256B.49~~, and is expected to remain in the facility or institution or receive the home and community-based services for at least 30 consecutive days; and

(2) married to a person who is not in a hospital, nursing facility, or intermediate care facility for persons with developmental disabilities, and is not receiving home and community-based services under section 256B.0915, 256B.092, or 256B.49.

(g) "For the sole benefit of" means no other individual or entity can benefit in any way from the assets or income at the time of a transfer or at any time in the future.

(h) "Continuous period of institutionalization" means a 30-consecutive-day period of time in which a person is expected to stay in a medical or long-term care facility, or receive home and community-based services that would qualify for coverage under the elderly waiver (EW) or alternative care (AC) programs. For a stay in a facility, the 30-consecutive-day period begins on the date of entry into a medical or long-term care facility. For receipt of home and community-based services, the 30-consecutive-day period begins on the date that the following conditions are met:

(1) the person is receiving services that meet the nursing facility level of care determined by a long-term care consultation;

(2) the person has received the long-term care consultation within the past 60 days;

(3) the services are paid by the EW program under section 256B.0915 or the AC program under section 256B.0913 or would qualify for payment under the EW or AC programs if the person were otherwise eligible for either program, and but for the receipt of such services the person would have resided in a nursing facility; and

(4) the services are provided by a licensed provider qualified to provide home and community-based services.

Sec. 21. Minnesota Statutes 2006, section 256B.059, subdivision 1a, is amended to read:

Subd. 1a. **Institutionalized spouse.** The provisions of this section apply only when a spouse is institutionalized ~~for a~~ begins the first continuous period ~~beginning of institutionalization~~ on or after October 1, 1989.

Sec. 22. Minnesota Statutes 2006, section 256B.0594, is amended to read:

256B.0594 PAYMENT OF BENEFITS FROM AN ANNUITY.

When payment becomes due under an annuity that names the department a remainder beneficiary ~~as described in section 256B.056, subdivision 11,~~ the issuer shall request and the department shall, within 45 days after receipt of the request, provide a written statement of the total amount of the medical assistance paid or confirmation that any family member designated as a remainder beneficiary meets requirements for qualification as a beneficiary in the first position. Upon timely receipt of the written statement of the amount of medical assistance paid, the issuer shall pay the department an amount equal to the lesser of the amount due the department under the annuity or the total amount of medical assistance paid on behalf of the individual or the individual's spouse. Any amounts remaining after the issuer's payment to the department shall be payable according to the terms of the annuity or similar financial instrument. The county agency or the department shall provide the issuer with the name, address, and telephone number of a unit within the department the issuer can contact to comply with this section. The requirements of section 72A.201, subdivision 4, clause (3), shall not apply to payments made under this section until the issuer has received final payment information from the department, if the issuer has notified the beneficiary of the requirements of this section at the time it initially requests payment information from the department.

Sec. 23. Minnesota Statutes 2006, section 256B.0595, subdivision 1, is amended to read:

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

(b) Effective for transfers made after August 10, 1993, ~~a~~ an institutionalized person, ~~a~~ an institutionalized person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the institutionalized person or institutionalized person's spouse, may not give away, sell, or dispose of, for less than fair market value, any asset or interest therein, except assets other than the homestead that are excluded under the supplemental security income program, for the purpose of establishing or maintaining medical assistance eligibility. This applies to all transfers, including those made by a community spouse after the month in which the institutionalized spouse is determined eligible for medical assistance. For purposes of determining eligibility for long-term care services, any transfer of such assets within 36 months before or any time after an institutionalized person ~~applies for~~ requests medical assistance payment of long-term care services, or 36 months before or any time after a medical assistance recipient becomes an institutionalized person,

for less than fair market value may be considered. Any such transfer is presumed to have been made for the purpose of establishing or maintaining medical assistance eligibility and the institutionalized person is ineligible for long-term care services for the period of time determined under subdivision 2, unless the institutionalized person furnishes convincing evidence to establish that the transaction was exclusively for another purpose, or unless the transfer is permitted under subdivision 3 or 4. In the case of payments from a trust or portions of a trust that are considered transfers of assets under federal law, or in the case of any other disposal of assets made on or after February 8, 2006, any transfers made within 60 months before or any time after an institutionalized person ~~applies for requests medical assistance payment of long-term care services~~ and within 60 months before or any time after a medical assistance recipient becomes an institutionalized person, may be considered.

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

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

(e) This section applies to the portion of any asset or interest that ~~a~~ an institutionalized person, ~~a~~ an institutionalized person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the institutionalized person or the institutionalized person's spouse, transfers to any annuity that exceeds the value of the benefit likely to be returned to the institutionalized person or institutionalized person's spouse while alive, based on estimated life expectancy ~~using the life expectancy tables employed by the supplemental security income program to determine the value of an agreement for services for life as determined according to the current actuarial tables published by the Office of the Chief Actuary of the Social Security Administration.~~ The commissioner may adopt rules reducing life expectancies based on the need for long-term care. This section applies to an annuity ~~described in this paragraph~~ purchased on or after March 1, 2002, that:

(1) is not purchased from an insurance company or financial institution that is subject to licensing or regulation by the Minnesota Department of Commerce or a similar regulatory agency of another state;

(2) does not pay out principal and interest in equal monthly installments; or

(3) does not begin payment at the earliest possible date after annuitization.

(f) Effective for transactions, including the purchase of an annuity, occurring on or after February 8, 2006, ~~the purchase of an annuity~~ by or on behalf of an individual institutionalized person who has applied for or is receiving long-term care services or the individual's institutionalized person's spouse shall be treated as the disposal of an asset for less than fair market value unless the department is named ~~as the~~ a preferred remainder beneficiary ~~in first position for an amount equal to at least the total amount of medical assistance paid on behalf of the individual or the individual's spouse; or the department is named as the remainder beneficiary in second position for an amount equal to at least the total amount of medical assistance paid on behalf of the individual or the individual's spouse after the individual's community spouse or minor or disabled child and is named as the remainder beneficiary in the first position if the community spouse or a representative of the minor or disabled child disposes of the remainder for less than fair market value~~ as described in section 256B.056, subdivision 11. Any subsequent change to the designation

of the department as a preferred remainder beneficiary shall result in the annuity being treated as a disposal of assets for less than fair market value. The amount of such transfer shall be the maximum amount the ~~individual institutionalized person~~ or the ~~individual's institutionalized person's~~ spouse could receive from the annuity or similar financial instrument. Any change in the amount of the income or principal being withdrawn from the annuity or other similar financial instrument at the time of the most recent disclosure shall be deemed to be a transfer of assets for less than fair market value unless the ~~individual institutionalized person~~ or the ~~individual's institutionalized person's~~ spouse demonstrates that the transaction was for fair market value. In the event a distribution of income or principal has been improperly distributed or disbursed from an annuity or other retirement planning instrument of an institutionalized person or the institutionalized person's spouse, a cause of action exists against the individual receiving the improper distribution for the cost of medical assistance services provided or the amount of the improper distribution, whichever is less.

(g) Effective for transactions, including the purchase of an annuity, occurring on or after February 8, 2006, ~~the purchase of an annuity~~ by or on behalf of an ~~individual institutionalized person~~ applying for or receiving long-term care services shall be treated as a disposal of assets for less than fair market value unless it is:

(i) an annuity described in subsection (b) or (q) of section 408 of the Internal Revenue Code of 1986; or

(ii) purchased with proceeds from:

(A) an account or trust described in subsection (a), (c), or (p) of section 408 of the Internal Revenue Code;

(B) a simplified employee pension within the meaning of section 408(k) of the Internal Revenue Code; or

(C) a Roth IRA described in section 408A of the Internal Revenue Code; or

(iii) an annuity that is irrevocable and nonassignable; is actuarially sound as determined in accordance with actuarial publications of the Office of the Chief Actuary of the Social Security Administration; and provides for payments in equal amounts during the term of the annuity, with no deferral and no balloon payments made.

(h) For purposes of this section, long-term care services include services in a nursing facility, services that are eligible for payment according to section 256B.0625, subdivision 2, because they are provided in a swing bed, intermediate care facility for persons with developmental disabilities, and home and community-based services provided pursuant to sections 256B.0915, 256B.092, and 256B.49. For purposes of this subdivision and subdivisions 2, 3, and 4, "institutionalized person" includes a person who is an inpatient in a nursing facility or in a swing bed, or intermediate care facility for persons with developmental disabilities or who is receiving home and community-based services under sections 256B.0915, 256B.092, and 256B.49.

(i) This section applies to funds used to purchase a promissory note, loan, or mortgage unless the note, loan, or mortgage:

(1) has a repayment term that is actuarially sound;

(2) provides for payments to be made in equal amounts during the term of the loan, with no deferral and no balloon payments made; and

(3) prohibits the cancellation of the balance upon the death of the lender.

In the case of a promissory note, loan, or mortgage that does not meet an exception in clauses (1) to (3), the value of such note, loan, or mortgage shall be the outstanding balance due as of the date of the ~~individual's application~~ institutionalized person's request for medical assistance payment of long-term care services.

(j) This section applies to the purchase of a life estate interest in another ~~individual's~~ person's home unless the purchaser resides in the home for a period of at least one year after the date of purchase.

Sec. 24. Minnesota Statutes 2006, section 256B.0595, subdivision 2, is amended to read:

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

(b) For uncompensated transfers made after August 10, 1993, the number of months of ineligibility for long-term care services shall be the total uncompensated value of the resources transferred divided by the average medical assistance rate for nursing facility services in the state in effect on the date of application. The amount used to calculate the average medical assistance payment rate shall be adjusted each July 1 to reflect payment rates for the previous calendar year. The period of ineligibility begins with the first day of the month after the month in which the assets were transferred except that if one or more uncompensated transfers are made during a period of ineligibility, the total assets transferred during the ineligibility period shall be combined and a penalty period calculated to begin on the first day of the month after the month in which the first uncompensated transfer was made. If the transfer was reported to the local agency after the date that advance notice of a period of ineligibility that affects the next month could be provided to the recipient and the recipient received medical assistance services or the transfer was not reported to the local agency, and the applicant or recipient received medical assistance services during what would have been the period of ineligibility if the transfer had been reported, a cause of action exists against the transferee for the cost of medical assistance that portion of long-term care services provided during the period of ineligibility, or for the uncompensated amount of the transfer, whichever is less. ~~The action may be brought by the state or the local agency responsible for providing medical assistance under chapter 256G.~~ The uncompensated transfer amount is the fair market value of the asset at the time it was given away, sold, or disposed of, less the amount of compensation received. Effective for transfers made on or after March 1, 1996, involving persons who apply for medical assistance on or after April 13, 1996, no cause of action exists for a transfer unless:

(1) the transferee knew or should have known that the transfer was being made by a person who was a resident of a long-term care facility or was receiving that level of care in the community at the time of the transfer;

(2) the transferee knew or should have known that the transfer was being made to assist the person to qualify for or retain medical assistance eligibility; or

(3) the transferee actively solicited the transfer with intent to assist the person to qualify for or retain eligibility for medical assistance.

(c) For uncompensated transfers made on or after February 8, 2006, the period of ineligibility:

(1) for uncompensated transfers by or on behalf of individuals receiving medical assistance payment of long-term care services, begins on the first day of the month in which following advance notice can be given following of the penalty period, but no later than the first day of the month in which assets have been transferred for less than fair market value, that follows three full calendar months from the date of the report or discovery of the transfer; or

(2) for uncompensated transfers by individuals requesting medical assistance payment of long-term care services, begins the date on which the individual is eligible for medical assistance under the Medicaid state plan and would otherwise be receiving long-term care services based on an approved application for such care but for the application of the penalty period; whichever is later; and which does not occur

(3) cannot begin during any other period of ineligibility.

(d) If a calculation of a penalty period results in a partial month, payments for long-term care services shall be reduced in an amount equal to the fraction.

(e) In the case of multiple fractional transfers of assets in more than one month for less than fair market value on or after February 8, 2006, the period of ineligibility is calculated by treating the total, cumulative, uncompensated value of all assets transferred during all months on or after February 8, 2006, as one transfer.

Sec. 25. Minnesota Statutes 2006, section 256B.0595, subdivision 3, is amended to read:

Subd. 3. **Homestead exception to transfer prohibition.** (a) An institutionalized person is not ineligible for long-term care services due to a transfer of assets for less than fair market value if the asset transferred was a homestead and:

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

(i) spouse;

(ii) child who is under age 21;

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

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

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

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

(3) the local agency grants a waiver of a penalty resulting from a transfer for less than fair market value because denial of eligibility would cause undue hardship for the individual, based on imminent threat to the individual's health and well-being. Whenever an applicant or recipient is denied eligibility because of a transfer for less than fair market value, the local agency shall notify the applicant or recipient that the applicant or recipient may request a waiver of the penalty if the denial of eligibility will cause undue hardship. With the written consent of the individual or the personal representative of the individual, a long-term care facility in which an individual is residing may file an undue hardship waiver request, on behalf of the individual who is denied eligibility for long-term care

services on or after July 1, 2006, due to a period of ineligibility resulting from a transfer on or after February 8, 2006. In evaluating a waiver, the local agency shall take into account whether the individual was the victim of financial exploitation, whether the individual has made reasonable efforts to recover the transferred property or resource, and other factors relevant to a determination of hardship. If the local agency does not approve a hardship waiver, the local agency shall issue a written notice to the individual stating the reasons for the denial and the process for appealing the local agency's decision.

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

- (1) 30 months of a transfer made on or before August 10, 1993;
- (2) 60 months if the homestead was transferred after August 10, 1993, to a trust or portion of a trust that is considered a transfer of assets under federal law;
- (3) 36 months if transferred in any other manner after August 10, 1993, but prior to February 8, 2006; or
- (4) 60 months if the homestead was transferred on or after February 8, 2006,

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

Sec. 26. Minnesota Statutes 2006, section 256B.0595, subdivision 4, is amended to read:

Subd. 4. **Other exceptions to transfer prohibition.** An institutionalized person who has made, or whose spouse has made a transfer prohibited by subdivision 1, is not ineligible for long-term care services if one of the following conditions applies:

- (1) the assets were transferred to the individual's spouse or to another for the sole benefit of the spouse; or
- (2) the institutionalized spouse, prior to being institutionalized, transferred assets to a spouse, provided that the spouse to whom the assets were transferred does not then transfer those assets to another person for less than fair market value. (At the time when one spouse is institutionalized, assets must be allocated between the spouses as provided under section 256B.059); or
- (3) the assets were transferred to the individual's child who is blind or permanently and totally disabled as determined in the supplemental security income program; or
- (4) a satisfactory showing is made that the individual intended to dispose of the assets either at fair market value or for other valuable consideration; or
- (5) the local agency determines that denial of eligibility for long-term care services would work an undue hardship and grants a waiver of a penalty resulting from a transfer for less than fair market value based on an imminent threat to the individual's health and well-being. Whenever an applicant or recipient is denied eligibility because of a transfer for less than fair market value, the local agency shall notify the applicant or recipient that the applicant or recipient may request a waiver of the penalty if the denial of eligibility will cause undue hardship. With the written consent of the individual or the personal representative of the individual, a long-term care facility in which an individual is residing may file an undue hardship waiver request, on behalf of the individual who is denied eligibility for long-term care services on or after July 1, 2006, due to a period of ineligibility resulting from a transfer on or after February 8, 2006. In evaluating a waiver, the local agency shall take into account whether the

individual was the victim of financial exploitation, whether the individual has made reasonable efforts to recover the transferred property or resource, whether the individual has taken any action to prevent the designation of the department as a remainder beneficiary on an annuity as described in section 256B.056, subdivision 11, and other factors relevant to a determination of hardship. The local agency shall make a determination within 30 days of the receipt of all necessary information needed to make such a determination. If the local agency does not approve a hardship waiver, the local agency shall issue a written notice to the individual stating the reasons for the denial and the process for appealing the local agency's decision. When a waiver is granted, a cause of action exists against the person to whom the assets were transferred for that portion of long-term care services ~~granted~~ provided within:

- (i) 30 months of a transfer made on or before August 10, 1993;
- (ii) 60 months of a transfer if the assets were transferred after August 30, 1993, to a trust or portion of a trust that is considered a transfer of assets under federal law;
- (iii) 36 months of a transfer if transferred in any other manner after August 10, 1993, but prior to February 8, 2006; or
- (iv) 60 months of any transfer made on or after February 8, 2006,

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

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

"For the sole benefit of" has the meaning found in section 256B.059, subdivision 1.

Sec. 27. Minnesota Statutes 2006, section 256B.0595, is amended by adding a subdivision to read:

Subd. 8. Cause of action; transfer prior to death. (a) A cause of action exists against a transferee who receives assets for less than fair market value, either:

(1) from a person who was a recipient of medical assistance and who made an uncompensated transfer that was known to the county agency but a penalty period could not be implemented under this section due to the death of the person; or

(2) from a person who was a recipient of medical assistance who made an uncompensated transfer that was not known to the county agency and the transfer was made with the intent to hinder, delay, or defraud the state or local agency from recovering as allowed under section 256B.15. In determining intent under this clause consideration may be given, among other factors, to whether:

- (i) the transfer was to a family member;
- (ii) the transferor retained possession or control of the property after the transfer;
- (iii) the transfer was concealed;
- (iv) the transfer included the majority of the transferor's assets;

(v) the value of the consideration received was not reasonably equivalent to the fair market value of the property; and

(vi) the transfer occurred shortly before the death of the transferor.

(b) No cause of action exists under this subdivision unless:

(1) the transferee knew or should have known that the transfer was being made by a person who was receiving medical assistance as described in section 256B.15, subdivision 1, paragraph (b); and

(2) the transferee received the asset without providing a reasonable equivalent fair market value in exchange for the transfer.

(c) The cause of action is for the uncompensated amount of the transfer or the amount of medical assistance paid on behalf of the person, whichever is less. The uncompensated transfer amount is the fair market value of the asset at the time it was given away, sold, or disposed of, less the amount of the compensation received.

Sec. 28. Minnesota Statutes 2006, section 256B.0595, is amended by adding a subdivision to read:

Subd. 9. **Filing cause of action; limitation.** (a) The county of financial responsibility under chapter 256G may bring a cause of action under any or all of the following:

(1) subdivision 1, paragraph (f);

(2) subdivision 2, paragraphs (a) and (b);

(3) subdivision 3, paragraph (b);

(4) subdivision 4, clause (5); and

(5) subdivision 8

on behalf of the claimant who must be the commissioner.

(b) Notwithstanding any other law to the contrary, a cause of action under subdivision 2, paragraph (a) or (b), or 8, must be commenced within six years of the date the local agency determines that a transfer was made for less than fair market value. Notwithstanding any other law to the contrary, a cause of action under subdivision 3, paragraph (b), or 4, clause (5), must be commenced within six years of the date of approval of a waiver of the penalty period for a transfer for less than fair market value based on undue hardship.

Sec. 29. Minnesota Statutes 2006, section 256B.0625, subdivision 3c, is amended to read:

Subd. 3c. **Health Services Policy Committee.** The commissioner, after receiving recommendations from professional physician associations, professional associations representing licensed nonphysician health care professionals, and consumer groups, shall establish a 13-member Health Services Policy Committee, which consists of 12 voting members and one nonvoting member. The Health Services Policy Committee shall advise the commissioner regarding health services pertaining to the administration of health care benefits covered under the medical assistance, general assistance medical care, and MinnesotaCare programs. The Health Services Policy Committee shall meet at least quarterly. The Health Services Policy Committee shall annually elect a physician chair from among its members, who shall work directly with the commissioner's medical director, to establish the

agenda for each meeting. The Health Services Policy Committee shall also recommend criteria for verifying centers of excellence for specific aspects of medical care where a specific set of combined services, a volume of patients necessary to maintain a high level of competency, or a specific level of technical capacity is associated with improved health outcomes.

Sec. 30. Minnesota Statutes 2006, section 256B.0625, subdivision 13g, is amended to read:

Subd. 13g. **Preferred drug list.** (a) The commissioner shall adopt and implement a preferred drug list by January 1, 2004. The commissioner may enter into a contract with a vendor ~~or one or more states~~ for the purpose of participating in a ~~multistate~~ preferred drug list and supplemental rebate program. The commissioner shall ensure that any contract meets all federal requirements and maximizes federal financial participation. The commissioner shall publish the preferred drug list annually in the State Register and shall maintain an accurate and up-to-date list on the agency Web site.

(b) The commissioner may add to, delete from, and otherwise modify the preferred drug list, after consulting with the Formulary Committee and appropriate medical specialists and providing public notice and the opportunity for public comment.

(c) The commissioner shall adopt and administer the preferred drug list as part of the administration of the supplemental drug rebate program. Reimbursement for prescription drugs not on the preferred drug list may be subject to prior authorization, unless the drug manufacturer signs a supplemental rebate contract.

(d) For purposes of this subdivision, "preferred drug list" means a list of prescription drugs within designated therapeutic classes selected by the commissioner, for which prior authorization based on the identity of the drug or class is not required.

(e) The commissioner shall seek any federal waivers or approvals necessary to implement this subdivision.

Sec. 31. Minnesota Statutes 2006, section 256B.0625, subdivision 13h, is amended to read:

Subd. 13h. **Medication therapy management services.** (a) Medical assistance and general assistance medical care cover medication therapy management services for a recipient taking four or more prescriptions to treat or prevent two or more chronic medical conditions, or a recipient with a drug therapy problem that is identified or prior authorized by the commissioner that has resulted or is likely to result in significant nondrug program costs. The commissioner may cover medical therapy management services under MinnesotaCare if the commissioner determines this is cost-effective. For purposes of this subdivision, "medication therapy management" means the provision of the following pharmaceutical care services by a licensed pharmacist to optimize the therapeutic outcomes of the patient's medications:

- (1) performing or obtaining necessary assessments of the patient's health status;
- (2) formulating a medication treatment plan;
- (3) monitoring and evaluating the patient's response to therapy, including safety and effectiveness;
- (4) performing a comprehensive medication review to identify, resolve, and prevent medication-related problems, including adverse drug events;
- (5) documenting the care delivered and communicating essential information to the patient's other primary care providers;

(6) providing verbal education and training designed to enhance patient understanding and appropriate use of the patient's medications;

(7) providing information, support services, and resources designed to enhance patient adherence with the patient's therapeutic regimens; and

(8) coordinating and integrating medication therapy management services within the broader health care management services being provided to the patient.

Nothing in this subdivision shall be construed to expand or modify the scope of practice of the pharmacist as defined in section 151.01, subdivision 27.

(b) To be eligible for reimbursement for services under this subdivision, a pharmacist must meet the following requirements:

(1) have a valid license issued under chapter 151;

(2) have graduated from an accredited college of pharmacy on or after May 1996, or completed a structured and comprehensive education program approved by the Board of Pharmacy and the American Council of Pharmaceutical Education for the provision and documentation of pharmaceutical care management services that has both clinical and didactic elements;

(3) be practicing in an ambulatory care setting as part of a multidisciplinary team or have developed a structured patient care process that is offered in a private or semiprivate patient care area that is separate from the commercial business that also occurs in the setting, or in home settings, excluding long-term care and group homes, if the service is ordered by the provider-directed care coordination team; and

(4) make use of an electronic patient record system that meets state standards.

(c) For purposes of reimbursement for medication therapy management services, the commissioner may enroll individual pharmacists as medical assistance and general assistance medical care providers. The commissioner may also establish contact requirements between the pharmacist and recipient, including limiting the number of reimbursable consultations per recipient.

(d) The commissioner, after receiving recommendations from professional medical associations, professional pharmacy associations, and consumer groups, shall convene an 11-member Medication Therapy Management Advisory Committee to advise the commissioner on the implementation and administration of medication therapy management services. The committee shall be comprised of: two licensed physicians; two licensed pharmacists; two consumer representatives; two health plan company representatives; and three members with expertise in the area of medication therapy management, who may be licensed physicians or licensed pharmacists. The committee is governed by section 15.059, except that committee members do not receive compensation or reimbursement for expenses. The advisory committee expires on June 30, 2007.

(e) The commissioner shall evaluate the effect of medication therapy management on quality of care, patient outcomes, and program costs, and shall include a description of any savings generated in the medical assistance and general assistance medical care programs that can be attributable to this coverage. The evaluation shall be submitted to the legislature by December 15, 2007. The commissioner may contract with a vendor or an academic institution that has expertise in evaluating health care outcomes for the purpose of completing the evaluation.

Sec. 32. Minnesota Statutes 2007 Supplement, section 256B.0625, subdivision 49, is amended to read:

Subd. 49. **Community health worker.** (a) Medical assistance covers the care coordination and patient education services provided by a community health worker if the community health worker has:

(1) received a certificate from the Minnesota State Colleges and Universities System approved community health worker curriculum; or

(2) at least five years of supervised experience with an enrolled physician, registered nurse, ~~or~~ advanced practice registered nurse, or dentist, or at least five years of supervised experience by a certified public health nurse operating under the direct authority of an enrolled unit of government.

Community health workers eligible for payment under clause (2) must complete the certification program by January 1, 2010, to continue to be eligible for payment.

(b) Community health workers must work under the supervision of a medical assistance enrolled physician, registered nurse, ~~or~~ advanced practice registered nurse, or dentist, or work under the supervision of a certified public health nurse operating under the direct authority of an enrolled unit of government.

(c) Care coordination and patient education services covered under this subdivision include, but are not limited to, services relating to oral health and dental care.

Sec. 33. Minnesota Statutes 2006, section 256B.075, subdivision 2, is amended to read:

Subd. 2. **Fee-for-service.** (a) The commissioner shall develop and implement a disease management program for medical assistance and general assistance medical care recipients who are not enrolled in the prepaid medical assistance or prepaid general assistance medical care programs and who are receiving services on a fee-for-service basis. The commissioner may contract with an outside organization to provide these services.

(b) The commissioner shall seek any federal approval necessary to implement this section and to obtain federal matching funds.

(c) The commissioner shall develop and implement a pilot intensive care management program for medical assistance children with complex and chronic medical issues ~~who are not able to participate in the metro-based U Special Kids program due to geographic distance.~~

Sec. 34. Minnesota Statutes 2006, section 256B.15, subdivision 4, is amended to read:

Subd. 4. **Other survivors.** (a) If the decedent who was single or the surviving spouse of a married couple is survived by one of the following persons, a claim exists against the estate payable first from the value of the nonhomestead property included in the estate and the personal representative shall make, execute, and deliver to the county agency a lien against the homestead property in the estate for any unpaid balance of the claim to the claimant as provided under this section:

~~(a)~~ (1) a sibling who resided in the decedent medical assistance recipient's home at least one year before the decedent's institutionalization and continuously since the date of institutionalization; or

~~(b)~~ (2) a son or daughter or a grandchild who resided in the decedent medical assistance recipient's home for at least two years immediately before the parent's or grandparent's institutionalization and continuously since the date of institutionalization, and who establishes by a preponderance of the evidence having provided care to the parent or grandparent who received medical assistance, that the care was provided before institutionalization, and that the care permitted the parent or grandparent to reside at home rather than in an institution.

(b) For purposes of this subdivision, "institutionalization" means receiving care:

(1) in a nursing facility or swing bed, or intermediate care facility for persons with developmental disabilities; or

(2) through home and community-based services under section 256B.0915, 256B.092, or 256B.49.

Sec. 35. Minnesota Statutes 2006, section 256B.69, subdivision 3a, is amended to read:

Subd. 3a. **County authority.** (a) The commissioner, when implementing the general assistance medical care, or medical assistance prepayment program within a county, must include the county board in the process of development, approval, and issuance of the request for proposals to provide services to eligible individuals within the proposed county. County boards must be given reasonable opportunity to make recommendations regarding the development, issuance, review of responses, and changes needed in the request for proposals. The commissioner must provide county boards the opportunity to review each proposal based on the identification of community needs under chapters 145A and 256E and county advocacy activities. If a county board finds that a proposal does not address certain community needs, the county board and commissioner shall continue efforts for improving the proposal and network prior to the approval of the contract. The county board shall make recommendations regarding the approval of local networks and their operations to ensure adequate availability and access to covered services. The provider or health plan must respond directly to county advocates and the state prepaid medical assistance ombudsperson regarding service delivery and must be accountable to the state regarding contracts with medical assistance and general assistance medical care funds. The county board may recommend a maximum number of participating health plans after considering the size of the enrolling population; ensuring adequate access and capacity; considering the client and county administrative complexity; and considering the need to promote the viability of locally developed health plans. The county board or a single entity representing a group of county boards and the commissioner shall mutually select health plans for participation at the time of initial implementation of the prepaid medical assistance program in that county or group of counties and at the time of contract renewal. The commissioner shall also seek input for contract requirements from the county or single entity representing a group of county boards at each contract renewal and incorporate those recommendations into the contract negotiation process. ~~The commissioner, in conjunction with the county board, shall actively seek to develop a mutually agreeable timetable prior to the development of the request for proposal, but counties must agree to initial enrollment beginning on or before January 1, 1999, in either the prepaid medical assistance and general assistance medical care programs or county-based purchasing under section 256B.692. At least 90 days before enrollment in the medical assistance and general assistance medical care prepaid programs begins in a county in which the prepaid programs have not been established, the commissioner shall provide a report to the chairs of senate and house committees having jurisdiction over state health care programs which verifies that the commissioner complied with the requirements for county involvement that are specified in this subdivision.~~

(b) At the option of the county board, the board may develop contract requirements related to the achievement of local public health goals to meet the health needs of medical assistance and general assistance medical care enrollees. These requirements must be reasonably related to the performance of health plan functions and within the scope of the medical assistance and general assistance medical care benefit sets. If the county board and the commissioner mutually agree to such requirements, the department shall include such requirements in all health plan contracts governing the prepaid medical assistance and general assistance medical care programs in that county at initial implementation of the program in that county and at the time of contract renewal. The county board may participate in the enforcement of the contract provisions related to local public health goals.

(c) For counties in which prepaid medical assistance and general assistance medical care programs have not been established, the commissioner shall not implement those programs if a county board submits acceptable and timely preliminary and final proposals under section 256B.692, until county-based purchasing is no longer operational in that county. For counties in which prepaid medical assistance and general assistance medical care programs are in existence on or after September 1, 1997, the commissioner must terminate contracts with health plans according to

section 256B.692, subdivision 5, if the county board submits and the commissioner accepts preliminary and final proposals according to that subdivision. The commissioner is not required to terminate contracts that begin on or after September 1, 1997, according to section 256B.692 until two years have elapsed from the date of initial enrollment.

(d) In the event that a county board or a single entity representing a group of county boards and the commissioner cannot reach agreement regarding: (i) the selection of participating health plans in that county; (ii) contract requirements; or (iii) implementation and enforcement of county requirements including provisions regarding local public health goals, the commissioner shall resolve all disputes after taking into account the recommendations of a three-person mediation panel. The panel shall be composed of one designee of the president of the association of Minnesota counties, one designee of the commissioner of human services, and one ~~designee of the commissioner of health~~ person selected jointly by the designee of the commissioner of human services and the designee of the Association of Minnesota Counties. Within a reasonable period of time before the hearing, the panelists must be provided all documents and information relevant to the mediation. The parties to the mediation must be given 30 days' notice of a hearing before the mediation panel.

(e) If a county which elects to implement county-based purchasing ceases to implement county-based purchasing, it is prohibited from assuming the responsibility of county-based purchasing for a period of five years from the date it discontinues purchasing.

~~(f) Notwithstanding the requirement in this subdivision that a county must agree to initial enrollment on or before January 1, 1999, the commissioner shall grant a delay in the implementation of the county-based purchasing authorized in section 256B.692 until federal waiver authority and approval has been granted, if the county or group of counties has submitted a preliminary proposal for county-based purchasing by September 1, 1997, has not already implemented the prepaid medical assistance program before January 1, 1998, and has submitted a written request for the delay to the commissioner by July 1, 1998. In order for the delay to be continued, the county or group of counties must also submit to the commissioner the following information by December 1, 1998. The information must:~~

~~(1) identify the proposed date of implementation, as determined under section 256B.692, subdivision 5;~~

~~(2) include copies of the county board resolutions which demonstrate the continued commitment to the implementation of county-based purchasing by the proposed date. County board authorization may remain contingent on the submission of a final proposal which meets the requirements of section 256B.692, subdivision 5, paragraph (b);~~

~~(3) demonstrate actions taken for the establishment of a governance structure between the participating counties and describe how the fiduciary responsibilities of county-based purchasing will be allocated between the counties, if more than one county is involved in the proposal;~~

~~(4) describe how the risk of a deficit will be managed in the event expenditures are greater than total capitation payments. This description must identify how any of the following strategies will be used:~~

~~(i) risk contracts with licensed health plans;~~

~~(ii) risk arrangements with providers who are not licensed health plans;~~

~~(iii) risk arrangements with other licensed insurance entities; and~~

~~(iv) funding from other county resources;~~

~~(5) include, if county based purchasing will not contract with licensed health plans or provider networks, letters of interest from local providers in at least the categories of hospital, physician, mental health, and pharmacy which express interest in contracting for services. These letters must recognize any risk transfer identified in clause (4), item (ii); and~~

~~(6) describe the options being considered to obtain the administrative services required in section 256B.692, subdivision 3, clauses (3) and (5).~~

~~(g) For counties which receive a delay under this subdivision, the final proposals required under section 256B.692, subdivision 5, paragraph (b), must be submitted at least six months prior to the requested implementation date. Authority to implement county-based purchasing remains contingent on approval of the final proposal as required under section 256B.692.~~

~~(h) If the commissioner is unable to provide county specific, individual level fee for service claims to counties by June 4, 1998, the commissioner shall grant a delay under paragraph (f) of up to 12 months in the implementation of county based purchasing, and shall require implementation not later than January 1, 2000. In order to receive an extension of the proposed date of implementation under this paragraph, a county or group of counties must submit a written request for the extension to the commissioner by August 1, 1998, must submit the information required under paragraph (f) by December 1, 1998, and must submit a final proposal as provided under paragraph (g).~~

~~(i) Notwithstanding other requirements of this subdivision, the commissioner shall not require the implementation of the county based purchasing authorized in section 256B.692 until six months after federal waiver approval has been obtained for county based purchasing, if the county or counties have submitted the final plan as required in section 256B.692, subdivision 5. The commissioner shall allow the county or counties which submitted information under section 256B.692, subdivision 5, to submit supplemental or additional information which was not possible to submit by April 1, 1999. A county or counties shall continue to submit the required information and substantive detail necessary to obtain a prompt response and waiver approval. If amendments to the final plan are necessary due to the terms and conditions of the waiver approval, the commissioner shall allow the county or group of counties 60 days to make the necessary amendments to the final plan and shall not require implementation of the county-based purchasing until six months after the revised final plan has been submitted.~~

(f) The commissioner shall not require that contractual disputes between county-based purchasing entities and the commissioner be mediated by a panel that includes a representative of the Minnesota Council of Health Plans.

(g) At the request of a county-purchasing entity, the commissioner shall adopt a contract procurement or renewal schedule under which all counties included in the entity's service area are reprocured or renewed at the same time.

(h) The commissioner shall provide a written report under section 3.195 to the chairs of the legislative committees having jurisdiction over human services in the senate and the house of representatives describing in detail the activities undertaken by the commissioner to ensure full compliance with this section. The report must also provide an explanation for any decisions of the commissioner not to accept the recommendations of a county or group of counties required to be consulted under this section. The report must be provided at least 30 days prior to the effective date of a new or renewed prepaid or managed care contract in a county.

Sec. 36. Minnesota Statutes 2006, section 256B.69, subdivision 6, is amended to read:

Subd. 6. **Service delivery.** (a) Each demonstration provider shall be responsible for the health care coordination for eligible individuals. Demonstration providers:

(1) shall authorize and arrange for the provision of all needed health services including but not limited to the full range of services listed in sections 256B.02, subdivision 8, and 256B.0625 in order to ensure appropriate health care is delivered to enrollees; notwithstanding section 256B.0621, demonstration providers that provide nursing home and community-based services under this section shall provide relocation service coordination to enrolled persons age 65 and over;

(2) shall accept the prospective, per capita payment from the commissioner in return for the provision of comprehensive and coordinated health care services for eligible individuals enrolled in the program;

(3) may contract with other health care and social service practitioners to provide services to enrollees; and

(4) shall institute recipient grievance procedures according to the method established by the project, utilizing applicable requirements of chapter 62D. Disputes not resolved through this process shall be appealable to the commissioner as provided in subdivision 11.

(b) Demonstration providers must comply with the standards for claims settlement under section 72A.201, subdivisions 4, 5, 7, and 8, when contracting with other health care and social service practitioners to provide services to enrollees. A demonstration provider must pay a clean claim, as defined in Code of Federal Regulations, title 42, section 447.45(b), within 30 business days of the date of acceptance of the claim.

Sec. 37. Minnesota Statutes 2006, section 256B.69, subdivision 27, is amended to read:

Subd. 27. **Information for persons with limited English-language proficiency.** Managed care contracts entered into under this section and sections 256D.03, subdivision 4, paragraph (c), and 256L.12 must require demonstration providers to ~~inform enrollees that upon request the enrollee can obtain a certificate of coverage in the following languages: Spanish, Hmong, Laotian, Russian, Somali, Vietnamese, or Cambodian. Upon request, the demonstration provider must provide the enrollee with a certificate of coverage in the specified language of preference~~ provide language assistance to enrollees that ensures meaningful access to its programs and services according to Title VI of the Civil Rights Act and federal regulations adopted under that law or any guidance from the United States Department of Health and Human Services.

Sec. 38. Minnesota Statutes 2006, section 256B.69, subdivision 28, is amended to read:

Subd. 28. **Medicare special needs plans; medical assistance basic health care.** (a) The commissioner may contract with qualified Medicare-approved special needs plans to provide medical assistance basic health care services to persons with disabilities, including those with developmental disabilities. Basic health care services include:

(1) those services covered by the medical assistance state plan except for ICF/MR services, home and community-based waiver services, case management for persons with developmental disabilities under section 256B.0625, subdivision 20a, and personal care and certain home care services defined by the commissioner in consultation with the stakeholder group established under paragraph (d); and

(2) basic health care services may also include risk for up to 100 days of nursing facility services for persons who reside in a noninstitutional setting and home health services related to rehabilitation as defined by the commissioner after consultation with the stakeholder group.

The commissioner may exclude other medical assistance services from the basic health care benefit set. Enrollees in these plans can access any excluded services on the same basis as other medical assistance recipients who have not enrolled.

Unless a person is otherwise required to enroll in managed care, enrollment in these plans for Medicaid services must be voluntary. For purposes of this subdivision, automatic enrollment with an option to opt out is not voluntary enrollment.

(b) Beginning January 1, 2007, the commissioner may contract with qualified Medicare special needs plans to provide basic health care services under medical assistance to persons who are dually eligible for both Medicare and Medicaid and those Social Security beneficiaries eligible for Medicaid but in the waiting period for Medicare. The commissioner shall consult with the stakeholder group under paragraph (d) in developing program specifications for these services. The commissioner shall report to the chairs of the house and senate committees with jurisdiction over health and human services policy and finance by February 1, 2007, on implementation of these programs and the need for increased funding for the ombudsman for managed care and other consumer assistance and protections needed due to enrollment in managed care of persons with disabilities. Payment for Medicaid services provided under this subdivision for the months of May and June will be made no earlier than July 1 of the same calendar year.

(c) Beginning January 1, 2008, the commissioner may expand contracting under this subdivision to all persons with disabilities not otherwise required to enroll in managed care.

(d) The commissioner shall establish a state-level stakeholder group to provide advice on managed care programs for persons with disabilities, including both MnDHO and contracts with special needs plans that provide basic health care services as described in paragraphs (a) and (b). The stakeholder group shall provide advice on program expansions under this subdivision and subdivision 23, including:

- (1) implementation efforts;
- (2) consumer protections; and
- (3) program specifications such as quality assurance measures, data collection and reporting, and evaluation of costs, quality, and results.

(e) Each plan under contract to provide medical assistance basic health care services shall establish a local or regional stakeholder group, including representatives of the counties covered by the plan, members, consumer advocates, and providers, for advice on issues that arise in the local or regional area.

(f) The commissioner is prohibited from providing the names of potential enrollees to health plans for marketing purposes. The commissioner may mail marketing materials to potential enrollees on behalf of health plans, in which case the health plans shall cover any costs incurred by the commissioner for mailing marketing materials.

Sec. 39. Minnesota Statutes 2006, section 256B.692, subdivision 7, is amended to read:

Subd. 7. **Dispute resolution.** In the event the commissioner rejects a proposal under subdivision 6, the county board may request the recommendation of a three-person mediation panel. The commissioner shall resolve all disputes after taking into account the recommendations of the mediation panel. The panel shall be composed of one designee of the president of the Association of Minnesota Counties, one designee of the commissioner of human services, and one ~~designee of the commissioner of health~~ person selected jointly by the designee of the commissioner of human services and the designee of the Association of Minnesota Counties. Within a reasonable period of time before the hearing, the panelists must be provided all documents and information relevant to the mediation. The parties to the mediation must be given 30 days' notice of a hearing before the mediation panel.

Sec. 40. Minnesota Statutes 2007 Supplement, section 256D.03, subdivision 3, is amended to read:

Subd. 3. **General assistance medical care; eligibility.** (a) General assistance medical care may be paid for any person who is not eligible for medical assistance under chapter 256B, including eligibility for medical assistance based on a spenddown of excess income according to section 256B.056, subdivision 5, or MinnesotaCare as defined in paragraph (b), except as provided in paragraph (c), and:

(1) who is receiving assistance under section 256D.05, except for families with children who are eligible under Minnesota family investment program (MFIP), or who is having a payment made on the person's behalf under sections 256L.01 to 256L.06; or

(2) who is a resident of Minnesota; and

(i) who has gross countable income not in excess of 75 percent of the federal poverty guidelines for the family size, using a six-month budget period and whose equity in assets is not in excess of \$1,000 per assistance unit. General assistance medical care is not available for applicants or enrollees who are otherwise eligible for medical assistance but fail to verify their assets. Enrollees who become eligible for medical assistance shall be terminated and transferred to medical assistance. Exempt assets, the reduction of excess assets, and the waiver of excess assets must conform to the medical assistance program in section 256B.056, subdivision 3, with the following exception: the maximum amount of undistributed funds in a trust that could be distributed to or on behalf of the beneficiary by the trustee, assuming the full exercise of the trustee's discretion under the terms of the trust, must be applied toward the asset maximum;

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

(iii) the commissioner shall adjust the income standards under this section each July 1 by the annual update of the federal poverty guidelines following publication by the United States Department of Health and Human Services.

(b) Effective for applications and renewals processed on or after September 1, 2006, general assistance medical care may not be paid for applicants or recipients who are adults with dependent children under 21 whose gross family income is equal to or less than 275 percent of the federal poverty guidelines who are not described in paragraph (e).

(c) Effective for applications and renewals processed on or after September 1, 2006, general assistance medical care may be paid for applicants and recipients who meet all eligibility requirements of paragraph (a), clause (2), item (i), for a temporary period beginning the date of application. Immediately following approval of general assistance medical care, enrollees shall be enrolled in MinnesotaCare under section 256L.04, subdivision 7, with covered services as provided in section 256L.03 for the rest of the six-month general assistance medical care eligibility period, until their six-month renewal.

(d) To be eligible for general assistance medical care following enrollment in MinnesotaCare as required by paragraph (c), an individual must complete a new application.

(e) Applicants and recipients eligible under paragraph (a), clause (1); ~~who~~ are exempt from the MinnesotaCare enrollment requirements in this subdivision if they:

(1) have applied for and are awaiting a determination of blindness or disability by the state medical review team or a determination of eligibility for Supplemental Security Income or Social Security Disability Insurance by the Social Security Administration; ~~who~~

(2) fail to meet the requirements of section 256L.09, subdivision 2; ~~who~~

(3) are homeless as defined by United States Code, title 42, section 11301, et seq.; ~~who~~

(4) are classified as end-stage renal disease beneficiaries in the Medicare program; ~~who~~

(5) are enrolled in private health care coverage as defined in section 256B.02, subdivision 9; ~~who~~

(6) are eligible under paragraph (j); ~~or who~~

(7) receive treatment funded pursuant to section 254B.02 ~~are exempt from the MinnesotaCare enrollment requirements of this subdivision; or~~

(8) reside in the Minnesota sex offender program defined in chapter 246B.

(f) For applications received on or after October 1, 2003, eligibility may begin no earlier than the date of application. For individuals eligible under paragraph (a), clause (2), item (i), a redetermination of eligibility must occur every 12 months. Individuals are eligible under paragraph (a), clause (2), item (ii), only during inpatient hospitalization but may reapply if there is a subsequent period of inpatient hospitalization.

(g) Beginning September 1, 2006, Minnesota health care program applications and renewals completed by recipients and applicants who are persons described in paragraph (c) and submitted to the county agency shall be determined for MinnesotaCare eligibility by the county agency. If all other eligibility requirements of this subdivision are met, eligibility for general assistance medical care shall be available in any month during which MinnesotaCare enrollment is pending. Upon notification of eligibility for MinnesotaCare, notice of termination for eligibility for general assistance medical care shall be sent to an applicant or recipient. If all other eligibility requirements of this subdivision are met, eligibility for general assistance medical care shall be available until enrollment in MinnesotaCare subject to the provisions of paragraphs (c), (e), and (f).

(h) The date of an initial Minnesota health care program application necessary to begin a determination of eligibility shall be the date the applicant has provided a name, address, and Social Security number, signed and dated, to the county agency or the Department of Human Services. If the applicant is unable to provide a name, address, Social Security number, and signature when health care is delivered due to a medical condition or disability, a health care provider may act on an applicant's behalf to establish the date of an initial Minnesota health care program application by providing the county agency or Department of Human Services with provider identification and a temporary unique identifier for the applicant. The applicant must complete the remainder of the application and provide necessary verification before eligibility can be determined. The county agency must assist the applicant in obtaining verification if necessary.

(i) County agencies are authorized to use all automated databases containing information regarding recipients' or applicants' income in order to determine eligibility for general assistance medical care or MinnesotaCare. Such use shall be considered sufficient in order to determine eligibility and premium payments by the county agency.

(j) General assistance medical care is not available for a person in a correctional facility unless the person is detained by law for less than one year in a county correctional or detention facility as a person accused or convicted of a crime, or admitted as an inpatient to a hospital on a criminal hold order, and the person is a recipient of general assistance medical care at the time the person is detained by law or admitted on a criminal hold order and as long as the person continues to meet other eligibility requirements of this subdivision.

(k) General assistance medical care is not available for applicants or recipients who do not cooperate with the county agency to meet the requirements of medical assistance.

(l) In determining the amount of assets of an individual eligible under paragraph (a), clause (2), item (i), there shall be included any asset or interest in an asset, including an asset excluded under paragraph (a), that was given away, sold, or disposed of for less than fair market value within the 60 months preceding application for general assistance medical care or during the period of eligibility. Any transfer described in this paragraph shall be presumed to have been for the purpose of establishing eligibility for general assistance medical care, unless the individual furnishes convincing evidence to establish that the transaction was exclusively for another purpose. For purposes of this paragraph, the value of the asset or interest shall be the fair market value at the time it was given away, sold, or disposed of, less the amount of compensation received. For any uncompensated transfer, the number of months of ineligibility, including partial months, shall be calculated by dividing the uncompensated transfer amount by the average monthly per person payment made by the medical assistance program to skilled nursing facilities for the previous calendar year. The individual shall remain ineligible until this fixed period has expired. The period of ineligibility may exceed 30 months, and a reapplication for benefits after 30 months from the date of the transfer shall not result in eligibility unless and until the period of ineligibility has expired. The period of ineligibility begins in the month the transfer was reported to the county agency, or if the transfer was not reported, the month in which the county agency discovered the transfer, whichever comes first. For applicants, the period of ineligibility begins on the date of the first approved application.

(m) When determining eligibility for any state benefits under this subdivision, the income and resources of all noncitizens shall be deemed to include their sponsor's income and resources as defined in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, title IV, Public Law 104-193, sections 421 and 422, and subsequently set out in federal rules.

(n) Undocumented noncitizens and nonimmigrants are ineligible for general assistance medical care. For purposes of this subdivision, a nonimmigrant is an individual in one or more of the classes listed in United States Code, title 8, section 1101(a)(15), and an undocumented noncitizen is an individual who resides in the United States without the approval or acquiescence of the United States Citizenship and Immigration Services.

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

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

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

Sec. 41. Minnesota Statutes 2006, section 524.3-803, is amended to read:

524.3-803 LIMITATIONS ON PRESENTATION OF CLAIMS.

(a) All claims as defined in section 524.1-201(6), against a decedent's estate which arose before the death of the decedent, including claims of the state and any subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, if not barred earlier by other statute of limitations, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented as follows:

(1) in the case of a creditor who is only entitled, under the United States Constitution and under the Minnesota Constitution, to notice by publication under section 524.3-801, within four months after the date of the court administrator's notice to creditors which is subsequently published pursuant to section 524.3-801;

(2) in the case of a creditor who was served with notice under section 524.3-801(c), within the later to expire of four months after the date of the first publication of notice to creditors or one month after the service;

(3) within the later to expire of one year after the decedent's death, or one year after June 16, 1989, whether or not notice to creditors has been published or served under section 524.3-801, provided, however, that in the case of a decedent who died before June 16, 1989, no claim which was then barred by any provision of law may be deemed to have been revived by the amendment of this section. Claims authorized by section 246.53, 256B.15, or 256D.16 must not be barred after one year as provided in this clause.

(b) All claims against a decedent's estate which arise at or after the death of the decedent, including claims of the state and any subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented as follows:

(1) a claim based on a contract with the personal representative, within four months after performance by the personal representative is due;

(2) any other claim, within four months after it arises.

(c) Nothing in this section affects or prevents:

(1) any proceeding to enforce any mortgage, pledge, or other lien upon property of the estate;

(2) any proceeding to establish liability of the decedent or the personal representative for which there is protection by liability insurance, to the limits of the insurance protection only;

(3) the presentment and payment at any time within one year after the decedent's death of any claim arising before the death of the decedent that is referred to in section 524.3-715, clause (18), although the same may be otherwise barred under this section; or

(4) the presentment and payment at any time before a petition is filed in compliance with section 524.3-1001 or 524.3-1002 or a closing statement is filed under section 524.3-1003, of:

(i) any claim arising after the death of the decedent that is referred to in section 524.3-715, clause (18), although the same may be otherwise barred hereunder;

(ii) any other claim, including claims subject to clause (3), which would otherwise be barred hereunder, upon allowance by the court upon petition of the personal representative or the claimant for cause shown on notice and hearing as the court may direct.

Sec. 42. **NURSING FACILITY PENSION COSTS.**

The commissioner of human services shall evaluate the extent to which the alternative payment system reimbursement methodology for pension costs leads to funding shortfalls for nursing facilities that convert from public to private ownership. The commissioner shall report to the legislature by January 15, 2009, recommendations for any changes to the alternative payment system reimbursement methodology for pension costs necessary to ensure the financial viability of nursing facilities. The commissioner shall pay for any costs related to this study using existing resources.

Sec. 43. NURSING FACILITY RATE DISPARITY REPORT.

The commissioner of human services shall study and make a report to the legislature by January 15, 2009, with recommendations to reduce rate disparities between nursing facilities in various regions of the state. The recommendations shall include cost estimates and may include a phase-in schedule. The study shall be accomplished using existing resources.

Sec. 44. HOME MODIFICATIONS.

Effective upon federal approval, the costs associated with home modifications that add to the square footage of an unlicensed private residence when necessary to complete a modification to configure a bathroom to accommodate a wheelchair may be allowed expenses for home and community-based waiver services provided under Minnesota Statutes, sections 256B.0916 and 256B.49, for persons with disabilities when the following conditions are met:

(1) the annual cost of the care and modifications for the waiver recipient does not exceed the cost of care that would otherwise be incurred for the recipient without the modification, as determined by the local lead agency;

(2) the modification is based on the assessed needs, goals, and best interest of the recipient as identified in the plan of care;

(3) the modification has been found to be the least costly appropriate alternative after other alternatives have been explored through an evaluation by the local lead agency; and

(4) the modification is reasonable given the value and size of the home.

Sec. 45. WAIVER AMENDMENT.

The commissioner of human services shall submit an amendment to the Centers for Medicare and Medicaid Services consistent with section 44 by October 1, 2008.

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

Sec. 46. APPROPRIATION.

\$65,000 is appropriated in the fiscal year beginning July 1, 2008, from the state government special revenue fund to the administrative services unit to pay for medical professional liability insurance coverage required under Minnesota Statutes, section 214.40. This appropriation shall become part of the base appropriation for the administrative services unit and shall be annually adjusted based on the cost of the coverage purchased to comply with Minnesota Statutes, section 214.40.

Sec. 47. REPEALER.

(a) Minnesota Statutes 2006, section 256B.0571, subdivision 8a, is repealed.

(b) Laws 2003, First Special Session chapter 5, section 11, is repealed.

ARTICLE 2**SEX OFFENDER PROGRAM**

Section 1. Minnesota Statutes 2006, section 13.851, is amended by adding a subdivision to read:

Subd. 9. **Civil commitment of sexual offenders.** Data relating to the preparation of a petition to commit an individual as a sexual psychopathic personality or sexually dangerous person is governed by section 253B.185, subdivision 1b.

Sec. 2. Minnesota Statutes 2006, section 246B.02, is amended to read:

246B.02 ESTABLISHMENT OF MINNESOTA SEX OFFENDER PROGRAM.

The commissioner of human services shall establish and maintain a secure facility located in Moose Lake. The facility shall be operated by the Minnesota sex offender program. The program shall provide care and treatment in secure treatment facilities to persons on a court-hold order and residing in a secure treatment facility or program pending commitment or committed by the courts as sexual psychopathic personalities or sexually dangerous persons, or persons admitted there with the consent of the commissioner of human services.

Sec. 3. **[246B.06] ESTABLISHMENT OF MINNESOTA STATE INDUSTRIES.**

Subdivision 1. **Establishment; purpose.** (a) The commissioner of human services may establish, equip, maintain, and operate the Minnesota State Industries at any Minnesota sex offender program facility under this chapter. The commissioner may establish industrial and commercial activities for sex offender treatment patients as the commissioner deems necessary and suitable to the profitable employment, educational training, and development of proper work habits of patients consistent with the requirements in section 246B.05. The industrial and commercial activities authorized by this section are designated Minnesota State Industries and must be for the primary purpose of sustaining and ensuring Minnesota State Industries' self-sufficiency, providing educational training, meaningful employment, and the teaching of proper work habits to the patients of the Minnesota sex offender program under this chapter, and not solely as competitive business ventures.

(b) The net profits from Minnesota State Industries must be used for the benefit of the patients as it relates to building education and self-sufficiency skills. Prior to the establishment of any industrial and commercial activity, the commissioner of human services shall consult with stakeholders including representatives of business, industry, organized labor, the commissioner of education, the state Apprenticeship Council, the commissioner of labor and industry, the commissioner of employment and economic development, the commissioner of administration, and other stakeholders the commissioner deems qualified. The purpose of the stakeholder consultation is to determine the quantity and nature of the goods, wares, merchandise, and services to be made or provided, and the types of processes to be used in their manufacture, processing, repair, and production consistent with the greatest opportunity for the reform and educational training of the patients, and with the best interests of the state, business, industry, and labor.

(c) The commissioner of human services shall, at all times in the conduct of any industrial or commercial activity authorized by this section, utilize patient labor to the greatest extent feasible, provided that the commissioner may employ all administrative, supervisory, and other skilled workers necessary to the proper instruction of the patients and the profitable and efficient operation of the industrial and commercial activities authorized by this section.

(d) The commissioner of human services may authorize the director of any Minnesota sex offender treatment facility under the commissioner's control to accept work projects from outside sources for processing, fabrication, or repair, provided that preference is given to the performance of work projects for state departments and agencies.

Subd. 2. **Revolving fund.** As described in section 246B.05, subdivision 2, there is established a Minnesota State Industries revolving fund under the control of the commissioner of human services. The revolving fund must be used for Minnesota State Industries authorized under this section, including, but not limited to, the purchase of equipment and raw materials, the payment of salaries and wages, and other necessary expenses as determined by the commissioner of human services. The purchase of services, materials, and commodities used in and held for resale

are not subject to the competitive bidding procedures of section 16C.06, but are subject to all other provisions of chapters 16B and 16C. When practical, purchases must be made from small targeted group businesses designated under section 16C.16. Additionally, the expenses of patient educational training and self-sufficiency skills may be financed from the revolving fund in an amount to be determined by the commissioner or designee. The proceeds and income from all Minnesota State Industries conducted at the Minnesota sex offender treatment facilities must be deposited in the revolving fund subject to disbursement under subdivision 3. The commissioner of human services may request that money in the fund be invested pursuant to section 11A.25. Proceeds from the investment not currently needed must be accounted for separately and credited to the revolving fund.

Subd. 3. **Disbursement from fund.** The Minnesota State Industries revolving fund must be deposited in the state treasury and paid out only on proper vouchers as authorized and approved by the commissioner of human services, and in the same manner and under the same restrictions as are now provided by law for the disbursement of funds by the commissioner. An amount deposited in the state treasury equal to six months of net operating cash as determined by the prior 12 months of revenue and cash flow statements must be restricted for use only by Minnesota State Industries as described under subdivision 2. For purposes of this subdivision, "net operating cash" means net income, minus sales, plus cost of goods sold. Cost of goods sold include all direct costs of industry products attributable to the goods' production.

Subd. 4. **Revolving fund; borrowing.** The commissioner of human services is authorized to borrow sums of money as the commissioner deems necessary to meet current demands on the Minnesota State Industries revolving fund. The sums borrowed must not exceed, in any calendar year, six months of net operating cash as determined by the previous 12 months of the industries' revenue and cash flow statements. If the commissioner of human services determines that borrowing of funds is necessary, the commissioner of human services shall certify this need to the commissioner of finance. Funds may be borrowed from general fund appropriations to the Minnesota sex offender program with the authorization of the commissioner of finance. Upon authorization of the commissioner of finance, the transfer must be made and credited to the Minnesota State Industries revolving fund. The sum transferred to the Minnesota State Industries revolving fund must be repaid by the commissioner of human services from the revolving fund to the fund from which it was transferred in a time period specified by the commissioner of finance, but by no later than the end of the biennium, as defined in section 16A.011, in which the loan is made. When any transfer is made to the Minnesota State Industries revolving fund, the commissioner of finance shall notify the commissioner of human services of the amount transferred to the fund and the date the transfer is to be repaid.

Subd. 5. **Federal grant fund transfers.** Grants received by the commissioner of human services from the federal government for any vocational training program or for administration by the commissioner of human services must (1) be credited to a federal grant fund and then (2) be transferred from the federal grant fund to the credit of the commissioner of human services in the appropriate account upon certification by the commissioner of human services that the amounts requested to be transferred have been earned or are required for the purposes of this section. Funds received by the federal grant fund need not be budgeted as such, provided transfers from the fund are budgeted for allotment purposes in the appropriate appropriation.

Subd. 6. **Wages.** Notwithstanding section 177.24 or any other law to the contrary, wages paid to patients working within this program are at the discretion of the commissioner of human services.

Sec. 4. Minnesota Statutes 2006, section 253B.045, subdivision 1, is amended to read:

Subdivision 1. **Restriction.** Except when ordered by the court pursuant to a finding of necessity to protect the life of the proposed patient or others, or as provided under subdivision 1a, no person subject to the provisions of this chapter shall be confined in a jail or correctional institution, except pursuant to chapter 242 or 244.

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

Sec. 5. Minnesota Statutes 2006, section 253B.045, is amended by adding a subdivision to read:

Subd. 1a. **Exception.** A person who is being petitioned for commitment under section 253B.185 and who is placed under a judicial hold order under section 253B.07, subdivision 2b or 7, may be confined at a Department of Corrections or a county correctional or detention facility, rather than a secure treatment facility, until a determination of the commitment petition as specified in this subdivision.

(a) A court may order that a person who is being petitioned for commitment under section 253B.185 be confined in a Department of Corrections facility pursuant to the judicial hold order under the following circumstances and conditions:

(1) The person is currently serving a sentence in a Department of Corrections facility and the court determines that the person has made a knowing and voluntary (i) waiver of the right to be held in a secure treatment facility and (ii) election to be held in a Department of Corrections facility. The order confining the person in the Department of Corrections facility shall remain in effect until the court vacates the order or the person's criminal sentence and conditional release term expire.

In no case may the person be held in a Department of Corrections facility pursuant only to this subdivision, and not pursuant to any separate correctional authority, for more than 210 days.

(2) A person who has elected to be confined in a Department of Corrections facility under this subdivision may revoke the election by filing a written notice of intent to revoke the election with the court and serving the notice upon the Department of Corrections and the county attorney. The court shall order the person transferred to a secure treatment facility within 15 days of the date that the notice of revocation was filed with the court, except that, if the person has additional time to serve in prison at the end of the 15-day period, the person shall not be transferred to a secure treatment facility until the person's prison term expires. After a person has revoked an election to remain in a Department of Corrections facility under this subdivision, the court may not adopt another election to remain in a Department of Corrections facility without the agreement of both parties and the Department of Corrections.

(3) Upon petition by the commissioner of corrections, after notice to the parties and opportunity for hearing and for good cause shown, the court may order that the person's place of confinement be changed from the Department of Corrections to a secure treatment facility.

(4) While at a Department of Corrections facility pursuant to this subdivision, the person shall remain subject to all rules and practices applicable to correctional inmates in the facility in which the person is placed including, but not limited to, the powers and duties of the commissioner of corrections under section 241.01, powers relating to use of force under section 243.52, and the right of the commissioner of corrections to determine the place of confinement in a prison, reformatory, or other facility.

(5) A person may not be confined in a Department of Corrections facility under this provision beyond the end of the person's executed sentence or the end of any applicable conditional release period, whichever is later. If a person confined in a Department of Corrections facility pursuant to this provision reaches the person's supervised release date and is subject to a period of conditional release, the period of conditional release shall commence on the supervised release date even though the person remains in the Department of Corrections facility pursuant to this provision. At the end of the later of the executed sentence or any applicable conditional release period, the person shall be transferred to a secure treatment facility.

(6) Nothing in this section may be construed to establish a right of an inmate in a state correctional facility to participate in sex offender treatment. This section must be construed in a manner consistent with the provisions of section 244.03.

(b) The committing county may offer a person who is being petitioned for commitment under section 253B.185 and who is placed under a judicial hold order under section 253B.07, subdivision 2b or 7, the option to be held in a county correctional or detention facility rather than a secure treatment facility, under such terms as may be agreed to by the county, the commitment petitioner, and the commitment respondent. If a person makes such an election under this paragraph, the court hold order shall specify the terms of the agreement, including the conditions for revoking the election.

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

Sec. 6. Minnesota Statutes 2006, section 253B.045, subdivision 2, is amended to read:

Subd. 2. **Facilities.** Each county or a group of counties shall maintain or provide by contract a facility for confinement of persons held temporarily for observation, evaluation, diagnosis, treatment, and care. When the temporary confinement is provided at a regional treatment center, the commissioner shall charge the county of financial responsibility for the costs of confinement of persons hospitalized under section 253B.05, subdivisions 1 and 2, and section 253B.07, subdivision 2b, except that the commissioner shall bill the responsible health plan first. If the person has health plan coverage, but the hospitalization does not meet the criteria in subdivision 6 or section 62M.07, 62Q.53, or 62Q.535, the county is responsible. When a person is temporarily confined in a Department of Corrections facility solely under subdivision 1a, and not based on any separate correctional authority:

(1) the commissioner of corrections may charge the county of financial responsibility for the costs of confinement; and

(2) the Department of Human Services shall use existing appropriations to fund all remaining nonconfinement costs. The funds received by the commissioner for the confinement and nonconfinement costs are appropriated to the department for these purposes.

"County of financial responsibility" means the county in which the person resides at the time of confinement or, if the person has no residence in this state, the county which initiated the confinement. The charge for confinement in a facility operated by the commissioner of human services shall be based on the commissioner's determination of the cost of care pursuant to section 246.50, subdivision 5. When there is a dispute as to which county is the county of financial responsibility, the county charged for the costs of confinement shall pay for them pending final determination of the dispute over financial responsibility. Disputes about the county of financial responsibility shall be submitted to the commissioner to be settled in the manner prescribed in section 256G.09.

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

Sec. 7. Minnesota Statutes 2006, section 253B.18, subdivision 4c, is amended to read:

Subd. 4c. **Special review board.** (a) The commissioner shall establish one or more panels of a special review board ~~for persons committed as mentally ill and dangerous to the public.~~ The board shall consist of three members experienced in the field of mental illness. One member of each special review board panel shall be a psychiatrist and one member shall be an attorney. No member shall be affiliated with the Department of Human Services. The special review board shall meet at least every six months and at the call of the commissioner. It shall hear and consider all petitions for a reduction in custody or to appeal a revocation of provisional discharge. A "reduction in custody" means transfer from a secure treatment facility; all petitions for discharge, and provisional discharge, and revocation of provisional discharge; and make recommendations to the commissioner concerning them. Patients may be transferred by the commissioner between secure treatment facilities without a special review board hearing.

~~(b)~~ Members of the special review board shall receive compensation and reimbursement for expenses as established by the commissioner.

(b) A petition filed by a person committed as mentally ill and dangerous to the public under this section must be heard as provided in subdivision 5 and, as applicable, subdivision 13. A petition filed by a person committed as a sexual psychopathic personality or as a sexually dangerous person under section 253B.185, or committed as both mentally ill and dangerous to the public under this section and as a sexual psychopathic personality or as a sexually dangerous person must be heard as provided in section 253B.185, subdivision 9.

Sec. 8. Minnesota Statutes 2006, section 253B.18, subdivision 5, is amended to read:

Subd. 5. **Petition; notice of hearing; attendance; order.** (a) A petition for ~~an order of transfer, discharge, provisional discharge, a reduction in custody~~ or revocation of provisional discharge shall be filed with the commissioner and may be filed by the patient or by the head of the treatment facility. A patient may not petition the special review board for six months following commitment under subdivision 3 or following the final disposition of any previous petition and subsequent appeal by the patient. The medical director may petition at any time.

(b) Fourteen days prior to the hearing, the committing court, the county attorney of the county of commitment, the designated agency, interested person, the petitioner, and the petitioner's counsel shall be given written notice by the commissioner of the time and place of the hearing before the special review board. Only those entitled to statutory notice of the hearing or those administratively required to attend may be present at the hearing. The patient may designate interested persons to receive notice by providing the names and addresses to the commissioner at least 21 days before the hearing. The board shall provide the commissioner with written findings of fact and recommendations within 21 days of the hearing. The commissioner shall issue an order no later than 14 days after receiving the recommendation of the special review board. A copy of the order shall be ~~sent by certified mail~~ mailed to every person entitled to statutory notice of the hearing within five days after it is signed. No order by the commissioner shall be effective sooner than 30 days after the order is signed, unless the county attorney, the patient, and the commissioner agree that it may become effective sooner.

(c) The special review board shall hold a hearing on each petition prior to making its recommendation to the commissioner. The special review board proceedings are not contested cases as defined in chapter 14. Any person or agency receiving notice that submits documentary evidence to the special review board prior to the hearing shall also provide copies to the patient, the patient's counsel, the county attorney of the county of commitment, the case manager, and the commissioner.

(d) Prior to the final decision by the commissioner, the special review board may be reconvened to consider events or circumstances that occurred subsequent to the hearing.

(e) In making their recommendations and order, the special review board and commissioner must consider any statements received from victims under subdivision 5a.

Sec. 9. Minnesota Statutes 2006, section 253B.18, subdivision 5a, is amended to read:

Subd. 5a. **Victim notification of petition and release; right to submit statement.** (a) As used in this subdivision:

(1) "crime" has the meaning given to "violent crime" in section 609.1095, and includes criminal sexual conduct in the fifth degree and offenses within the definition of "crime against the person" in section 253B.02, subdivision 4a, and also includes offenses listed in section 253B.02, subdivision 7a, paragraph (b), regardless of whether they are sexually motivated;

(2) "victim" means a person who has incurred loss or harm as a result of a crime the behavior for which forms the basis for a commitment under this section or section 253B.185; and

(3) "convicted" and "conviction" have the meanings given in section 609.02, subdivision 5, and also include juvenile court adjudications, findings under Minnesota Rules of Criminal Procedure, Rule 20.02, that the elements of a crime have been proved, and findings in commitment cases under this section or section 253B.185 that an act or acts constituting a crime occurred.

(b) A county attorney who files a petition to commit a person under this section or section 253B.185 shall make a reasonable effort to provide prompt notice of filing the petition to any victim of a crime for which the person was convicted. In addition, the county attorney shall make a reasonable effort to promptly notify the victim of the resolution of the petition.

(c) Before provisionally discharging, discharging, granting pass-eligible status, approving a pass plan, or otherwise permanently or temporarily releasing a person committed under this section or section 253B.185 from a treatment facility, the head of the treatment facility shall make a reasonable effort to notify any victim of a crime for which the person was convicted that the person may be discharged or released and that the victim has a right to submit a written statement regarding decisions of the medical director, special review board, or commissioner with respect to the person. To the extent possible, the notice must be provided at least 14 days before any special review board hearing or before a determination on a pass plan. Notwithstanding section 611A.06, subdivision 4, the commissioner shall provide the judicial appeal panel with victim information in order to comply with the provisions of this section. The judicial appeal panel shall ensure that the data on victims remains private as provided for in section 611A.06, subdivision 4.

(d) This subdivision applies only to victims who have requested notification by contacting, in writing, the county attorney in the county where the conviction for the crime occurred. A county attorney who receives a request for notification under this paragraph shall promptly forward the request to the commissioner of human services.

(e) The rights under this subdivision are in addition to rights available to a victim under chapter 611A. This provision does not give a victim all the rights of a "notified person" or a person "entitled to statutory notice" under subdivision 4a, 4b, or 5.

Sec. 10. Minnesota Statutes 2007 Supplement, section 253B.185, subdivision 1b, is amended to read:

Subd. 1b. **County attorney access to data.** Notwithstanding sections 144.291 to 144.298; 245.467, subdivision 6; 245.4876, subdivision 7; 260B.171; 260B.235, subdivision 8; 260C.171; and 609.749, subdivision 6, or any provision of chapter 13 or other state law, prior to filing a petition for commitment as a sexual psychopathic personality or as a sexually dangerous person, and upon notice to the proposed patient, the county attorney or the county attorney's designee may move the court for an order granting access to any records or data, to the extent it relates to the proposed patient, for the purpose of determining whether good cause exists to file a petition and, if a petition is filed, to support the allegations set forth in the petition.

The court may grant the motion if: (1) the Department of Corrections refers the case for commitment as a sexual psychopathic personality or a sexually dangerous person; or (2) upon a showing that the requested category of data or records may be relevant to the determination by the county attorney or designee. The court shall decide a motion under this subdivision within 48 hours after a hearing on the motion. Notice to the proposed patient need not be given upon a showing that such notice may result in harm or harassment of interested persons or potential witnesses.

Notwithstanding any provision of chapter 13 or other state law, a county attorney considering the civil commitment of a person under this section may obtain records and data from the Department of Corrections or any probation or parole agency in this state upon request, without a court order, for the purpose of determining whether good cause exists to file a petition and, if a petition is filed, to support the allegations set forth in the petition. At the time of the request for the records, the county attorney shall provide notice of the request to the person who is the subject of the records.

Data collected pursuant to this subdivision shall retain their original status and, if not public, are inadmissible in any court proceeding unrelated to civil commitment, unless otherwise permitted.

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

Sec. 11. Minnesota Statutes 2006, section 253B.185, subdivision 5, is amended to read:

Subd. 5. **Financial responsibility.** (a) For purposes of this subdivision, "state facility" has the meaning given in section 246.50 and also includes a Department of Corrections facility when the proposed patient is confined in such a facility pursuant to section 253B.045, subdivision 1a.

(b) Notwithstanding sections 246.54, 253B.045, and any other law to the contrary, when a petition is filed for commitment under this section pursuant to the notice required in section 244.05, subdivision 7, the state and county are each responsible for 50 percent of the cost of the person's confinement at a state facility or county jail, prior to commitment.

(c) The county shall submit an invoice to the state court administrator for reimbursement of the state's share of the cost of confinement.

(d) Notwithstanding paragraph (b), the state's responsibility for reimbursement is limited to the amount appropriated for this purpose.

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

Sec. 12. Minnesota Statutes 2006, section 253B.185, is amended by adding a subdivision to read:

Subd. 9. **Petition for reduction in custody.** (a) This subdivision applies only to committed persons as defined in paragraph (b). The procedures in section 253B.18, subdivision 5a, for victim notification and right to submit a statement under section 253B.18 apply to petitions filed and reductions in custody recommended under this subdivision.

(b) As used in this subdivision:

(1) "committed person" means an individual committed under this section, or under this section and under section 253B.18, as mentally ill and dangerous. It does not include persons committed only as mentally ill and dangerous under section 253B.18; and

(2) "reduction in custody" means transfer out of a secure treatment facility, a provisional discharge, or a discharge from commitment. A reduction in custody is considered to be a commitment proceeding under section 8.01.

(c) A petition for a reduction in custody or an appeal of a revocation of provisional discharge may be filed by either the committed person or by the head of the treatment facility and must be filed with and considered by the special review board. A committed person may not petition the special review board any sooner than six months following either:

(1) the entry of judgment in the district court of the order for commitment issued under section 253B.18, subdivision 3, or upon the exhaustion of all related appeal rights in state court relating to that order, whichever is later; or

(2) any recommendation of the special review board or order of the judicial appeal panel, or upon the exhaustion of all appeal rights in state court, whichever is later. The medical director may petition at any time. The special review board proceedings are not contested cases as defined in chapter 14.

(d) The special review board shall hold a hearing on each petition before issuing a recommendation under paragraph (f). Fourteen days before the hearing, the committing court, the county attorney of the county of commitment, the designated agency, an interested person, the petitioner and the petitioner's counsel, and the committed person and the committed person's counsel must be given written notice by the commissioner of the time and place of the hearing before the special review board. Only those entitled to statutory notice of the hearing or those administratively required to attend may be present at the hearing. The patient may designate interested persons to receive notice by providing the names and addresses to the commissioner at least 21 days before the hearing.

(e) A person or agency receiving notice that submits documentary evidence to the special review board before the hearing must also provide copies to the committed person, the committed person's counsel, the county attorney of the county of commitment, the case manager, and the commissioner. The special review board must consider any statements received from victims under section 253B.18, subdivision 5a.

(f) Within 30 days of the hearing, the special review board shall issue written findings of fact and shall recommend denial or approval of the petition to the judicial appeal panel established under section 253B.19. The commissioner shall forward the recommendation of the special review board to the judicial appeal panel and to every person entitled to statutory notice. No reduction in custody or reversal of a revocation of provisional discharge recommended by the special review board is effective until it has been reviewed by the judicial appeal panel and until 15 days after an order from the judicial appeal panel affirming, modifying, or denying the recommendation.

Sec. 13. Minnesota Statutes 2006, section 253B.19, subdivision 2, is amended to read:

Subd. 2. **Petition; hearing.** ~~The committed person or the county attorney of the county from which a patient was committed as a person who is mentally ill and dangerous to the public, or as a sexual psychopathic personality or as a sexually dangerous person may petition the appeal panel for a rehearing and reconsideration of a decision by the commissioner. The petition shall be filed with the Supreme Court within 30 days after the decision of the commissioner is signed. The Supreme Court shall refer the petition to the chief judge of the appeal panel.~~ (a) A person committed as mentally ill and dangerous to the public under section 253B.18, or the county attorney of the county from which the person was committed or the county of financial responsibility, may petition the judicial appeal panel for a rehearing and reconsideration of a decision by the commissioner under section 253B.18, subdivision 5. The judicial appeal panel must not consider petitions for relief other than those considered by the commissioner from which the appeal is taken. The petition must be filed with the Supreme Court within 30 days after the decision of the commissioner is signed. The hearing must be held within 45 days of the filing of the petition unless an extension is granted for good cause.

(b) A person committed as a sexual psychopathic personality or as a sexually dangerous person under section 253B.185, or committed as both mentally ill and dangerous to the public under section 253B.18 and as a sexual psychopathic personality or as a sexually dangerous person under section 253B.185; the county attorney of the county from which the person was committed or the county of financial responsibility; or the commissioner may petition the judicial appeal panel for a rehearing and reconsideration of a decision of the special review board under section 253B.185, subdivision 9. The petition must be filed with the Supreme Court within 30 days after the decision is mailed by the commissioner as required in section 253B.185, subdivision 9, paragraph (f). The hearing must be held within 180 days of the filing of the petition unless an extension is granted for good cause. If no party petitions the judicial appeal panel for a rehearing or reconsideration within 30 days, the judicial appeal panel shall either issue an order adopting the recommendations of the special review board or set the matter on for a hearing pursuant to this paragraph.

(c) For an appeal under paragraph (a) or (b), the Supreme Court shall refer the petition to the chief judge of the judicial appeal panel. The chief judge shall notify the patient, the county attorney of the county of commitment, the designated agency, the commissioner, the head of the treatment facility, any interested person, and other persons the chief judge designates, of the time and place of the hearing on the petition. The notice shall be given at least 14 days prior to the date of the hearing. ~~The hearing shall be within 45 days of the filing of the petition unless an extension is granted for good cause.~~

(d) Any person may oppose the petition. The patient, the patient's counsel, the county attorney of the committing county or the county of financial responsibility, and the commissioner shall participate as parties to the proceeding pending before the judicial appeal panel and shall, no later than 20 days before the hearing on the petition, inform the judicial appeal panel and the opposing party in writing whether they support or oppose the petition and provide a summary of facts in support of their position. The judicial appeal panel may appoint examiners and may adjourn the hearing from time to time. It shall hear and receive all relevant testimony and evidence and make a record of all proceedings. The patient, the patient's counsel, and the county attorney of the committing county may or the county of financial responsibility have the right to be present and may present and cross-examine all witnesses and offer a factual and legal basis in support of their positions. The petitioning party bears the burden of going forward with the evidence. The party opposing discharge bears the burden of proof by clear and convincing evidence that the respondent is in need of commitment.

Sec. 14. Minnesota Statutes 2006, section 253B.19, subdivision 3, is amended to read:

Subd. 3. **Decision.** A majority of the judicial appeal panel shall rule upon the petition. The panel shall consider the petition de novo. The order of the judicial appeal panel shall supersede ~~the an~~ order of the commissioner ~~in the cases under section 253B.18, subdivision 5.~~ No order of the judicial appeal panel granting a transfer, discharge or provisional discharge shall be made effective sooner than 15 days after it is issued. The panel may not consider petitions for relief other than those considered by the commissioner or special review board from which the appeal is taken. The judicial appeal panel may not grant a transfer or provisional discharge on terms or conditions that were not presented to the commissioner or the special review board.

Sec. 15. Minnesota Statutes 2006, section 626.5572, subdivision 21, is amended to read:

Subd. 21. **Vulnerable adult.** "Vulnerable adult" means any person 18 years of age or older who:

(1) is a resident or inpatient of a facility;

(2) receives services at or from a facility required to be licensed to serve adults under sections 245A.01 to 245A.15, except that a person receiving outpatient services for treatment of chemical dependency or mental illness, or one who is served in the Minnesota sex offender program on a court-hold order for commitment, or is committed as a sexual psychopathic personality or as a sexually dangerous person under chapter 253B, is not considered a vulnerable adult unless the person meets the requirements of clause (4);

(3) receives services from a home care provider required to be licensed under section 144A.46; or from a person or organization that exclusively offers, provides, or arranges for personal care assistant services under the medical assistance program as authorized under sections 256B.04, subdivision 16, 256B.0625, subdivision 19a, 256B.0651, and 256B.0653 to 256B.0656; or

(4) regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction:

(i) that impairs the individual's ability to provide adequately for the individual's own care without assistance, including the provision of food, shelter, clothing, health care, or supervision; and

(ii) because of the dysfunction or infirmity and the need for assistance, the individual has an impaired ability to protect the individual from maltreatment.

Sec. 16. **MINNESOTA SEX OFFENDER PROGRAM; OPERATING STANDARDS.**

The commissioner of human services shall convene a working group of interested parties to develop standards and guidelines for the operations of the Minnesota sex offender program. The standards and guidelines shall include, but not be limited to:

- (1) criteria to establish a sex offender treatment advisory board;
- (2) criteria to ensure the necessary provision of health and dental care for patients;
- (3) criteria to ensure the necessary provision of mental health care; and
- (4) fire and safety criteria.

The standards and guidelines shall be developed by the commissioner in consultation with the working group members by February 1, 2009, and presented to the chairs of the policy and finance committees having jurisdiction over the Minnesota sex offender program for review.

ARTICLE 3

MFIP

Section 1. Minnesota Statutes 2007 Supplement, section 256J.49, subdivision 13, is amended to read:

Subd. 13. **Work activity.** "Work activity" means any activity in a participant's approved employment plan that leads to employment. For purposes of the MFIP program, this includes activities that meet the definition of work activity under the participation requirements of TANF. Work activity includes:

- (1) unsubsidized employment, including work study and paid apprenticeships or internships;
- (2) subsidized private sector or public sector employment, including grant diversion as specified in section 256J.69, on-the-job training as specified in section 256J.66, ~~the self-employment investment demonstration program (SEID) as specified in section 256J.65,~~ paid work experience, and supported work when a wage subsidy is provided;
- (3) unpaid work experience, including community service, volunteer work, the community work experience program as specified in section 256J.67, unpaid apprenticeships or internships, and supported work when a wage subsidy is not provided. Unpaid work experience is only an option if the participant has been unable to obtain or maintain paid employment in the competitive labor market, and no paid work experience programs are available to the participant. Prior to placing a participant in unpaid work, the county must inform the participant that the participant will be notified if a paid work experience or supported work position becomes available. Unless a participant consents in writing to participating ~~participate~~ in unpaid work experience, the participant's employment plan may only include unpaid work experience if including the unpaid work experience in the plan will meet the following criteria:

(i) the unpaid work experience will provide the participant specific skills or experience that cannot be obtained through other work activity options where the participant resides or is willing to reside; and

(ii) the skills or experience gained through the unpaid work experience will result in higher wages for the participant than the participant could earn without the unpaid work experience;

(4) job search including job readiness assistance, job clubs, job placement, job-related counseling, and job retention services;

(5) job readiness education, including English as a second language (ESL) or functional work literacy classes as limited by the provisions of section 256J.531, subdivision 2, general educational development (GED) course work, high school completion, and adult basic education as limited by the provisions of section 256J.531, subdivision 1;

(6) job skills training directly related to employment, including education and training that can reasonably be expected to lead to employment, as limited by the provisions of section 256J.53;

(7) providing child care services to a participant who is working in a community service program;

(8) activities included in the employment plan that is developed under section 256J.521, subdivision 3; and

(9) preemployment activities including chemical and mental health assessments, treatment, and services; learning disabilities services; child protective services; family stabilization services; or other programs designed to enhance employability.

ARTICLE 4

MANAGED CARE CONTRACT

Section 1. Laws 2005, First Special Session chapter 4, article 8, section 84, as amended by Laws 2006, chapter 264, section 15, is amended to read:

Sec. 84. **SOLE-SOURCE OR SINGLE-PLAN MANAGED CARE CONTRACT.**

(a) Notwithstanding Minnesota Statutes, section 256B.692, subdivision 6, clause (1), paragraph (c), the commissioner of human services shall approve a county-based purchasing health plan proposal, submitted on behalf of Cass, Crow Wing, Morrison, Todd, and Wadena Counties, that requires county-based purchasing on a single-plan basis contract if the implementation of the single-plan purchasing proposal does not limit an enrollee's provider choice or access to services and all other requirements applicable to health plan purchasing are satisfied. ~~The commissioner shall continue single health plan purchasing arrangements with county-based purchasing entities in the service areas in existence on May 1, 2006, including arrangements for which a proposal was submitted by May 1, 2006, on behalf of Cass, Crow Wing, Morrison, Todd, and Wadena Counties, in response to a request for proposals issued by the commissioner. The commissioner shall continue to use single-health plan, county-based purchasing arrangements for medical assistance and general assistance medical care programs and products for the counties that were in single-health plan, county-based purchasing arrangements on March 1, 2008. This paragraph does not require the commissioner to terminate an existing contract with a noncounty-based purchasing plan that had enrollment in a medical assistance program or product in these counties on March 1, 2008. This paragraph expires on December 31, 2010, or the effective date of a new contract for medical assistance and general assistance medical care managed care programs entered into at the conclusion of the commissioner's next scheduled procurement process for the county-based purchasing entities covered by this paragraph, whichever is later.~~

(b) The commissioner shall consider, and may approve, contracting on a single-health plan basis with other county-based purchasing plans, or with other qualified health plans that have coordination arrangements with counties, to serve persons with a disability who voluntarily enroll, in order to promote better coordination or integration of health care services, social services and other community-based services, provided that all

requirements applicable to health plan purchasing, including those in Minnesota Statutes, section 256B.69, subdivision 23, are satisfied. ~~By January 15, 2007, the commissioner shall report to the chairs of the appropriate legislative committees in the house and senate an analysis of the advantages and disadvantages of using single health plan purchasing to serve persons with a disability who are eligible for health care programs. The report shall include consideration of the impact of federal health care programs and policies for persons who are eligible for both federal and state health care programs and shall consider strategies to improve coordination between federal and state health care programs for those persons. Nothing in this paragraph supersedes or modifies the requirements in paragraph (a)."~~

Delete the title and insert:

"A bill for an act relating to human services; amending health care services provisions; making changes to a managed care contract provision; increasing a HMO renewal fee; changing provisions relating to sex offender program; changing a work activity provision under MFIP; requiring a report; appropriating money; amending Minnesota Statutes 2006, sections 13.851, by adding a subdivision; 125A.02, subdivision 1; 144A.45, subdivision 1, by adding a subdivision; 150A.06, by adding a subdivision; 214.40, by adding a subdivision; 246B.02; 253B.045, subdivisions 1, 2, by adding a subdivision; 253B.18, subdivisions 4c, 5, 5a; 253B.185, subdivision 5, by adding a subdivision; 253B.19, subdivisions 2, 3; 256.01, by adding a subdivision; 256B.056, subdivisions 2, 4a, 11, by adding a subdivision; 256B.057, subdivision 1; 256B.0571, subdivisions 6, 8, 9, 15, by adding a subdivision; 256B.058; 256B.059, subdivisions 1, 1a; 256B.0594; 256B.0595, subdivisions 1, 2, 3, 4, by adding subdivisions; 256B.0625, subdivisions 3c, 13g, 13h; 256B.075, subdivision 2; 256B.15, subdivision 4; 256B.69, subdivisions 3a, 6, 27, 28; 256B.692, subdivision 7; 524.3-803; 626.5572, subdivision 21; Minnesota Statutes 2007 Supplement, sections 253B.185, subdivision 1b; 256B.055, subdivision 14; 256B.0625, subdivision 49; 256D.03, subdivision 3; 256J.49, subdivision 13; Laws 2005, First Special Session chapter 4, article 8, section 84, as amended; proposing coding for new law in Minnesota Statutes, chapters 145; 246B; repealing Minnesota Statutes 2006, section 256B.0571, subdivision 8a; Laws 2003, First Special Session chapter 5, section 11."

We request the adoption of this report and repassage of the bill.

House Conferees: THOMAS HUNTLEY, ERIN MURPHY AND RON ERHARDT.

Senate Conferees: LINDA BERGLIN, TONY LOUREY AND PAUL E. KOERING.

Huntley moved that the report of the Conference Committee on H. F. No. 3222 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 3222, A bill for an act relating to human services; amending health care services provisions; making changes to general assistance medical care, medical assistance, and MinnesotaCare; modifying claims, liens, and treatment of assets; establishing a statewide information exchange; amending Minnesota Statutes 2006, sections 256B.056, subdivisions 2, 4a, 11, by adding a subdivision; 256B.057, subdivision 1; 256B.0571, subdivisions 8, 9, 15, by adding a subdivision; 256B.058; 256B.059, subdivisions 1, 1a; 256B.0594; 256B.0595, subdivisions 1, 2, 3, 4, by adding subdivisions; 256B.0625, subdivision 13g; 256B.075, subdivision 2; 256B.15, subdivision 4; 256B.69, subdivisions 6, 27; 524.3-803; Minnesota Statutes 2007 Supplement, sections 256B.055, subdivision 14; 256B.0625, subdivision 49; 256D.03, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 256B.

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 126 yeas and 7 nays as follows:

Those who voted in the affirmative were:

Abeler	Dittrich	Hilstrom	Liebling	Otremba	Slawik
Anderson, S.	Dominguez	Hilty	Lieder	Ozment	Slocum
Anzelc	Doty	Holberg	Lillie	Paulsen	Smith
Atkins	Eastlund	Hornstein	Loeffler	Paymar	Solberg
Beard	Eken	Hortman	Magnus	Pelowski	Swails
Benson	Emmer	Hosch	Mahoney	Peppin	Thao
Berns	Erhardt	Howes	Mariani	Peterson, A.	Thissen
Bigham	Erickson	Huntley	Marquart	Peterson, N.	Tillberry
Bly	Faust	Jaros	Masin	Peterson, S.	Tingelstad
Brod	Finstad	Johnson	McFarlane	Poppe	Tschumper
Brown	Fritz	Juhnke	McNamara	Rukavina	Urdahl
Brynaert	Gardner	Kahn	Moe	Ruth	Wagenius
Bunn	Garofalo	Kalin	Morgan	Ruud	Walker
Carlson	Gottwalt	Knuth	Morrow	Sailer	Ward
Clark	Greiling	Koenen	Mullery	Scalze	Wardlow
Cornish	Gunther	Kohls	Murphy, E.	Seifert	Welti
Davnie	Hamilton	Kranz	Murphy, M.	Sertich	Westrom
Dean	Hansen	Laine	Nelson	Severson	Winkler
DeLaForest	Hausman	Lanning	Nornes	Shimanski	Wollschlager
Demmer	Haws	Lenczewski	Norton	Simon	Zellers
Dill	Heidgerken	Lesch	Olin	Simpson	Spk. Kelliher

Those who voted in the negative were:

Anderson, B.	Drazkowski	Hoppe	Olson
Buesgens	Hackbarth	Madore	

The bill was repassed, as amended by Conference, and its title agreed to.

There being no objection, the order of business reverted to Messages from the Senate.

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Madam Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 2876.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

COLLEEN J. PACHECO, Second Assistant Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. NO. 2876

A bill for an act relating to animals; changing provisions regulating dangerous dogs and dogs at certain establishments; imposing penalties; amending Minnesota Statutes 2006, sections 347.50, by adding a subdivision; 347.51, subdivisions 2, 2a, 3, 4, 7, 9; 347.52; 347.53; 347.54, subdivisions 1, 3; 347.55; 347.56; proposing coding for new law in Minnesota Statutes, chapters 157; 347.

May 7, 2008

The Honorable James P. Metzen
President of the Senate

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 2876 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate concur in the House amendment and that S. F. No. 2876 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. **[157.175] DOGS; OUTDOOR FOOD AND BEVERAGE SERVICE ESTABLISHMENTS.**

Subdivision 1. **Municipal authorization.** A statutory or home rule charter city may adopt an ordinance to permit food and beverage service establishments to allow dogs to accompany persons patronizing designated outdoor areas of food and beverage establishments.

Subd. 2. **Dangerous and potentially dangerous dogs.** The ordinance must prohibit dangerous and potentially dangerous dogs, as defined in section 347.50, from accompanying patrons to food and beverage establishments.

Subd. 3. **Banning dogs.** The ordinance may not prohibit a food and beverage establishment from banning dogs. A person accompanied by a dog who remains at an establishment knowing that the operator of the establishment or its agent has posted a sign banning dogs or otherwise informed the person that dogs are not permitted in the establishment may be ordered to leave the premises.

Subd. 4. **Permit process.** (a) The ordinance must require participating establishments to apply for and receive a permit from the city before allowing patrons' dogs on their premises. The city shall require from the applicant such information as the local government deems reasonably necessary, but shall require, at a minimum, the following information:

(1) the name, location, and mailing address of the establishment;

(2) the name, mailing address, and telephone contact information of the permit applicant;

(3) a description of the designated outdoor areas in which the permit applicant intends to allow dogs; and

(4) a description of the days of the week and hours of operation that patrons' dogs will be permitted in the designated outdoor areas.

(b) A permit issued pursuant to the authority granted in this section must not be transferred to a subsequent owner upon the sale of a food and beverage establishment but must expire automatically upon the sale of the establishment. The subsequent owner shall be required to reapply for a permit pursuant to this section if the subsequent owner wishes to continue to accommodate patrons' dogs.

(c) A city may incorporate the permit requirements of this section into a permit or license issued under an existing ordinance if the city ensures that current and future permit and license holders comply with the requirements of this section. A city may exempt current permit and license holders from reapplying for a permit, if the current permit or license holder provides the city with the information required in paragraph (a) and any other information that the city requests.

Subd. 5. **Minimum requirements.** The ordinance must include such regulations and limitations as the local government deems reasonably necessary to protect the health, safety, and general welfare of the public, but must require, at a minimum, the following requirements, which must be clearly printed on a sign or signs posted on premises in a manner and place that are conspicuous to employees and patrons:

(1) employees must be prohibited from touching, petting, or otherwise handling dogs;

(2) employees and patrons must not allow dogs to come into contact with serving dishes, utensils, tableware, linens, paper products, or any other items involved in food service operations;

(3) patrons must keep their dogs on a leash at all times and must keep their dogs under reasonable control;

(4) dogs must not be allowed on chairs, tables, or other furnishings; and

(5) dog waste must be cleaned immediately and the area sanitized.

Subd. 6. **Service animals.** Nothing in this statute, or an ordinance adopted pursuant to this statute, shall be construed to limit:

(1) the right of a person with disabilities to access places of public accommodation while accompanied by a service animal as provided in sections 256C.02 and 363A.19; or

(2) the lawful use of a service animal by a licensed peace officer.

Subd. 7. **Designated outdoor area.** The ordinance must include a definition of "designated outdoor area" that is consistent with applicable rules adopted by the commissioner of health.

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

Sec. 2. Minnesota Statutes 2006, section 347.50, is amended by adding a subdivision to read:

Subd. 8. **Provocation.** "Provocation" means an act that an adult could reasonably expect may cause a dog to attack or bite.

Sec. 3. Minnesota Statutes 2006, section 347.51, subdivision 2, is amended to read:

Subd. 2. **Registration.** An animal control authority shall issue a certificate of registration to the owner of a dangerous dog if the owner presents sufficient evidence that:

(1) a proper enclosure exists for the dangerous dog and a posting on the premises with a clearly visible warning sign that there is a dangerous dog on the property, including a warning symbol to inform children, ~~that there is a dangerous dog on the property~~;

(2) a surety bond issued by a surety company authorized to conduct business in this state in a form acceptable to the animal control authority in the sum of at least ~~\$50,000~~ \$300,000, payable to any person injured by the dangerous dog, or a policy of liability insurance issued by an insurance company authorized to conduct business in this state in the amount of at least ~~\$50,000~~ \$300,000, insuring the owner for any personal injuries inflicted by the dangerous dog;

(3) the owner has paid an annual fee of not more than \$500, in addition to any regular dog licensing fees, to obtain a certificate of registration for a dangerous dog under this section; and

(4) the owner has had microchip identification implanted in the dangerous dog as required under section 347.515.

Sec. 4. Minnesota Statutes 2006, section 347.51, subdivision 2a, is amended to read:

Subd. 2a. **Warning symbol.** ~~If a county an animal control authority~~ issues a certificate of registration to the owner of a dangerous dog pursuant to subdivision 2, the county animal control authority must provide, for posting on the owner's property, a copy of a warning symbol to inform children that there is a dangerous dog on the property. ~~The design of the~~ warning symbol must be the uniform and specified symbol provided by the commissioner of public safety, ~~after consultation with animal control professionals~~. The commissioner shall provide the number of copies of the warning symbol requested by ~~each county the animal control authority~~ and shall charge the county animal control authority the actual cost of the warning symbols received. ~~The county animal control authority may charge the registrant a reasonable fee to cover its administrative costs and the cost of the warning symbol.~~

Sec. 5. Minnesota Statutes 2006, section 347.51, subdivision 3, is amended to read:

Subd. 3. **Fee.** The county animal control authority may charge the owner an annual fee, in addition to any regular dog licensing fees, to obtain a certificate of registration for a dangerous dog under this section.

Sec. 6. Minnesota Statutes 2006, section 347.51, subdivision 7, is amended to read:

Subd. 7. **Tag.** A dangerous dog registered under this section must have a standardized, easily identifiable tag identifying the dog as dangerous and containing the uniform dangerous dog symbol, affixed to the dog's collar at all times. ~~The commissioner of public safety, after consultation with animal control professionals, shall provide by rule for the design of the tag.~~

Sec. 7. Minnesota Statutes 2006, section 347.51, subdivision 9, is amended to read:

Subd. 9. **Contracted services.** ~~A county~~ An animal control authority may contract with another political subdivision or other person to provide the services required under sections 347.50 to ~~347.54~~ 347.565. Notwithstanding any contract entered into under this subdivision, all fees collected under sections 347.50 to 347.54 shall be paid to the county animal control authority and all certificates of registration must be issued in the name of the county animal control authority.

Sec. 8. Minnesota Statutes 2006, section 347.52, is amended to read:

347.52 DANGEROUS DOGS; REQUIREMENTS.

(a) An owner of a dangerous dog shall keep the dog, while on the owner's property, in a proper enclosure. If the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash and under the physical restraint of a responsible person. The muzzle must be made in a manner that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere with its vision or respiration.

(b) An owner of a dangerous dog must renew the registration of the dog annually until the dog is deceased. If the dog is removed from the jurisdiction, it must be registered as a dangerous dog in its new jurisdiction.

(c) An owner of a dangerous dog must notify the animal control authority in writing of the death of the dog or its transfer to a new ~~jurisdiction~~ location where the dog will reside within 30 days of the death or transfer, and must, if requested by the animal control authority, execute an affidavit under oath setting forth either the circumstances of the dog's death and disposition or the complete name, address, and telephone number of the person to whom the dog has been transferred or the address where the dog has been relocated.

(d) An animal control authority ~~may~~ shall require a dangerous dog to be sterilized at the owner's expense. If the owner does not have the animal sterilized within 30 days, the animal control authority ~~may~~ shall seize the dog and have the animal it sterilized at the owner's expense.

(e) A person who owns a dangerous dog and who rents property from another where the dog will reside must disclose to the property owner prior to entering the lease agreement and at the time of any lease renewal that the person owns a dangerous dog that will reside at the property.

(f) A person who ~~sells~~ transfers ownership of a dangerous dog must notify the ~~purchaser~~ new owner that the animal control authority has identified the dog as dangerous. The ~~seller~~ current owner must also notify the animal control authority in writing of the ~~sale~~ transfer of ownership and provide the animal control authority with the new owner's name, address, and telephone number.

Sec. 9. Minnesota Statutes 2006, section 347.53, is amended to read:

347.53 POTENTIALLY DANGEROUS AND DANGEROUS DOGS.

Any statutory or home rule charter city, or any county, may regulate potentially dangerous and dangerous dogs. Except as provided in section 347.51, subdivision 8, nothing in sections 347.50 to ~~347.54~~ 347.565 limits any restrictions that the local jurisdictions may place on owners of potentially dangerous or dangerous dogs.

Sec. 10. Minnesota Statutes 2006, section 347.54, subdivision 1, is amended to read:

Subdivision 1. **Seizure.** (a) The animal control authority having jurisdiction shall immediately seize any dangerous dog if:

(1) after 14 days after the owner has notice that the dog is dangerous, the dog is not validly registered under section 347.51;

(2) after 14 days after the owner has notice that the dog is dangerous, the owner does not secure the proper liability insurance or surety coverage as required under section 347.51, subdivision 2;

(3) the dog is not maintained in the proper enclosure; ~~or~~

(4) the dog is outside the proper enclosure and not under physical restraint of a responsible person as required under section 347.52.; or

(5) the dog is not sterilized within 30 days, pursuant to section 347.52, paragraph (d).

(b) If an owner of a dog is convicted of a crime for which the dog was originally seized, the court may order that the dog be confiscated and destroyed in a proper and humane manner, and that the owner pay the costs incurred in confiscating, confining, and destroying the dog.

Sec. 11. Minnesota Statutes 2006, section 347.54, subdivision 3, is amended to read:

Subd. 3. **Subsequent offenses; seizure.** If a person has been convicted of a misdemeanor for violating a provision of section 347.51, ~~347.515,~~ or 347.52, and the person is charged with a subsequent violation relating to the same dog, the dog must be seized by the animal control authority having jurisdiction. If the owner is convicted of the crime for which the dog was seized, the court shall order that the dog be destroyed in a proper and humane manner and the owner pay the cost of confining and destroying the animal. ~~If the person is not convicted of the crime for which the dog was seized, the owner may reclaim the dog upon payment to the animal control authority of a fee for the care and boarding of the dog. If the owner is not convicted and the dog is not reclaimed by the owner within seven days after the owner has been notified that the dog may be reclaimed, the dog may be disposed of as provided under section 35.71, subdivision 3, and the owner is liable to the animal control authority for the costs incurred in confining, impounding, and disposing of the dog.~~

Sec. 12. **[347.541] DISPOSITION OF SEIZED ANIMALS.**

Subdivision 1. **Hearing.** The owner of any dog declared dangerous has the right to a hearing by an impartial hearing officer.

Subd. 2. **Security.** A person claiming an interest in a seized dog may prevent disposition of the dog by posting security in an amount sufficient to provide for the dog's actual cost of care and keeping. The security must be posted within seven days of the seizure inclusive of the date of the seizure.

Subd. 3. **Notice.** The authority declaring the dog dangerous shall give notice of this section by delivering or mailing it to the owner of the dog, or by posting a copy of it at the place where the dog is kept, or by delivering it to a person residing on the property, and telephoning, if possible. The notice must include:

(1) a description of the seized dog; the authority for and purpose of the dangerous dog declaration and seizure; the time, place, and circumstances under which the dog was declared dangerous; and the telephone number and contact person where the dog is kept;

(2) a statement that the owner of the dog may request a hearing concerning the dangerous dog declaration and, if applicable, prior potentially dangerous dog declarations for the dog, and that failure to do so within 14 days of the date of the notice will terminate the owner's right to a hearing under this section;

(3) a statement that if an appeal request is made within 14 days of the notice, the owner must immediately comply with the requirements of section 347.52, paragraphs (a) and (c), and until such time as the hearing officer issues an opinion;

(4) a statement that if the hearing officer affirms the dangerous dog declaration, the owner will have 14 days from receipt of that decision to comply with all other requirements of sections 347.51, 347.515, and 347.52;

(5) a form to request a hearing under this subdivision; and

(6) a statement that all actual costs of the care, keeping, and disposition of the dog are the responsibility of the person claiming an interest in the dog, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law.

Subd. 4. **Right to hearing.** Any hearing must be held within 14 days of the request to determine the validity of the dangerous dog declaration. The hearing officer must be an impartial employee of the local government or an impartial person retained by the local government to conduct the hearing. In the event that the dangerous dog declaration is upheld by the hearing officer, actual expenses of the hearing up to a maximum of \$1,000 will be the responsibility of the dog's owner. The hearing officer shall issue a decision on the matter within ten days after the hearing. The decision must be delivered to the dog's owner by hand delivery or registered mail as soon as practical and a copy must be provided to the animal control authority.

Sec. 13. **[347.542] RESTRICTIONS.**

Subdivision 1. **Dog ownership prohibited.** Except as provided in subdivision 3, no person may own a dog if the person has:

(1) been convicted of a third or subsequent violation of section 347.51, 347.515, or 347.52;

(2) been convicted of a violation under section 609.205, clause (4);

(3) been convicted of a gross misdemeanor under section 609.226, subdivision 1;

(4) been convicted of a violation under section 609.226, subdivision 2; or

(5) had a dog ordered destroyed under section 347.56 and been convicted of one or more violations of section 347.51, 347.515, 347.52, or 609.226, subdivision 2.

Subd. 2. **Household members.** If any member of a household is prohibited from owning a dog in subdivision 1, unless specifically approved with or without restrictions by an animal control authority, no person in the household is permitted to own a dog.

Subd. 3. **Dog ownership prohibition review.** Beginning three years after a conviction under subdivision 1 that prohibits a person from owning a dog, and annually thereafter, the person may request that the animal control authority review the prohibition. The animal control authority may consider such facts as the seriousness of the violation or violations that led to the prohibition, any criminal convictions, or other facts that the animal control authority deems appropriate. The animal control authority may rescind the prohibition entirely or rescind it with limitations. The animal control authority also may establish conditions a person must meet before the prohibition is rescinded, including, but not limited to, successfully completing dog training or dog handling courses. If the animal control authority rescinds a person's prohibition and the person subsequently fails to comply with any limitations imposed by the animal control authority or the person is convicted of any animal violation involving unprovoked bites or dog attacks, the animal control authority may permanently prohibit the person from owning a dog in this state.

Sec. 14. Minnesota Statutes 2006, section 347.55, is amended to read:

347.55 PENALTY.

(a) ~~Any~~ A person who violates ~~any~~ a provision of section 347.51, ~~347.515~~, or 347.52 is guilty of a misdemeanor.

(b) It is a misdemeanor to remove a microchip from a dangerous or potentially dangerous dog, to fail to renew the registration of a dangerous dog, to fail to account for a dangerous dog's death or ~~removal from the jurisdiction~~ change of location where the dog will reside, to sign a false affidavit with respect to a dangerous dog's death or ~~removal from the jurisdiction~~ change of location where the dog will reside, or to fail to disclose ownership of a dangerous dog to a property owner from whom the person rents property.

(c) A person who is convicted of a second or subsequent violation of paragraph (a) or (b) is guilty of a gross misdemeanor.

(d) An owner who violates section 347.542, subdivision 1, is guilty of a gross misdemeanor.

(e) Any household member who knowingly violates section 347.542, subdivision 2, is guilty of a gross misdemeanor.

Sec. 15. Minnesota Statutes 2006, section 347.56, is amended to read:

347.56 DESTRUCTION OF DOG IN CERTAIN CIRCUMSTANCES.

Subdivision 1. **Circumstances.** Notwithstanding sections 347.51 to 347.55, a dog ~~that inflicted substantial or great bodily harm on a human being on public or private property without provocation may be destroyed in a proper and humane manner by the animal control authority. The animal control authority may not destroy the dog until the dog owner has had the opportunity for a hearing before an impartial decision maker.~~ may be destroyed in a proper and humane manner by the animal control authority if the dog:

(1) inflicted substantial or great bodily harm on a human on public or private property without provocation;

(2) inflicted multiple bites on a human on public or private property without provocation;

(3) bit multiple human victims on public or private property in the same attack without provocation; or

(4) bit a human on public or private property without provocation in an attack where more than one dog participated in the attack.

Subd. 2. **Hearing.** The animal control authority may not destroy the dog until the dog owner has had the opportunity for a hearing before an impartial decision maker. The definitions in section 347.50 and the exemptions under section 347.51, subdivision 5, apply to this section.

Sec. 16. **[347.565] APPLICABILITY.**

Sections 347.50 to 347.56 must be enforced by animal control authorities or law enforcement agencies, whether or not these sections have been adopted into local ordinance."

Delete the title and insert:

"A bill for an act relating to animals; changing provisions regulating dangerous dogs; providing for certain cities to authorize certain outdoor food and beverage establishments to allow dogs to accompany patrons; amending Minnesota Statutes 2006, sections 347.50, by adding a subdivision; 347.51, subdivisions 2, 2a, 3, 7, 9; 347.52; 347.53; 347.54, subdivisions 1, 3; 347.55; 347.56; proposing coding for new law in Minnesota Statutes, chapters 157; 347."

We request the adoption of this report and repassage of the bill.

Senate Conferees: ELLEN R. ANDERSON, D. SCOTT DIBBLE AND STEVE DILLE.

House Conferees: MICHAEL PAYMAR, FRANK HORNSTEIN AND RON ERHARDT.

Paymar moved that the report of the Conference Committee on S. F. No. 2876 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 2876, A bill for an act relating to animals; changing provisions regulating dangerous dogs and dogs at certain establishments; imposing penalties; amending Minnesota Statutes 2006, sections 347.50, by adding a subdivision; 347.51, subdivisions 2, 2a, 3, 4, 7, 9; 347.52; 347.53; 347.54, subdivisions 1, 3; 347.55; 347.56; proposing coding for new law in Minnesota Statutes, chapters 157; 347.

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 110 yeas and 23 nays as follows:

Those who voted in the affirmative were:

Abeler	Doty	Hortman	Loeffler	Paulsen	Thissen
Anderson, S.	Eastlund	Hosch	Madore	Paymar	Tillberry
Atkins	Eken	Howes	Mahoney	Pelowski	Tingelstad
Beard	Erhardt	Huntley	Mariani	Peterson, A.	Tschumper
Benson	Erickson	Jaros	Marquart	Poppe	Urdahl
Berns	Faust	Johnson	Masin	Rukavina	Wagenius
Bigham	Fritz	Juhnke	McFarlane	Ruth	Walker
Bly	Gardner	Kahn	McNamara	Ruud	Ward
Brown	Gottwalt	Knuth	Moe	Sailer	Wardlow
Brynaert	Greiling	Koenen	Morgan	Sertich	Welti
Buesgens	Gunther	Kohls	Morrow	Severson	Westrom
Bunn	Hansen	Kranz	Mullery	Simon	Winkler
Carlson	Hausman	Laine	Murphy, E.	Simpson	Wollschlager
Clark	Haws	Lanning	Murphy, M.	Slawik	Zellers
Davnie	Hilstrom	Lenczewski	Nelson	Slocum	Spk. Kelliher
DeLaForest	Hilty	Lesch	Nornes	Smith	
Dill	Holberg	Liebling	Norton	Solberg	
Dittrich	Hoppe	Lieder	Olin	Swails	
Dominguez	Hornstein	Lillie	Otremba	Thao	

Those who voted in the negative were:

Anderson, B.	Dean	Finstad	Heidgerken	Ozment	Scalze
Anzelc	Demmer	Garofalo	Kalin	Peppin	Seifert
Brod	Drazkowski	Hackbarth	Magnus	Peterson, N.	Shimanski
Cornish	Emmer	Hamilton	Olson	Peterson, S.	

The bill was repassed, as amended by Conference, and its title agreed to.

Speaker pro tempore Pelowski called Thissen to the Chair.

CALENDAR FOR THE DAY

S. F. No. 2965 was reported to the House.

Tingelstad and Simon moved to amend S. F. No. 2965, the second engrossment, as follows:

Page 4, line 31, before the semicolon, insert ", including that receipt of compensation must be reported and may disqualify her from all or part of medical benefits under Minnesota health care programs established under chapter 256B, 256D, or 256L, and from all or part of benefits under other income-based governmental assistance programs"

Page 6, line 5, delete "and"

Page 6, after line 5, insert:

"(6) it must require direct reimbursement to the Department of Human Services for any medical expenses paid by Minnesota health care programs established under chapter 256B, 256D, or 256L and related to prenatal care and delivery expenses under the gestational carrier contract. A person considered to be the parent of the child under section 257.88, paragraph (b), is a liable third party and obligated to reimburse the department for any medical expenses related to the birth of the child or medical complication caused by the birth; and"

Page 6, line 6, delete "(6)" and insert "(7)"

Page 6, line 36, delete the semicolon and insert ", provided that the requirements under this clause must not actually and unreasonably jeopardize the gestational carrier's own health; and"

Page 7, delete lines 1 and 2

Page 7, line 3, delete "(4)" and insert "(3)"

Page 8, line 15, before the period, insert "including, but not limited to, a gestational carrier who is genetically related to the child"

The motion prevailed and the amendment was adopted.

Severson moved to amend S. F. No. 2965, the second engrossment, as amended, as follows:

Page 8, after line 5, insert:

"Sec. 9. **[257.935] CERTAIN MEDICAL PROCEDURES PROHIBITED.**

A gestational carrier may not undergo an abortion procedure while carrying a child pursuant to the terms of a gestational carrier contract. The terms of a gestational carrier contract may not permit the gestational carrier to undergo an abortion while the carrier is subject to the contract."

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 Severson amendment and the roll was called. There were 63 yeas and 70 nays as follows:

Those who voted in the affirmative were:

Abeler	Dill	Garofalo	Howes	Olson	Simpson
Anderson, B.	Dittrich	Gottwalt	Juhnke	Otremba	Smith
Anderson, S.	Doty	Gunther	Koenen	Ozment	Solberg
Beard	Drazkowski	Hackbarth	Kohls	Paulsen	Urdahl
Berns	Eastlund	Hamilton	Lanning	Pelowski	Ward
Brod	Eken	Haws	Lenczewski	Peppin	Wardlow
Buesgens	Emmer	Heidgerken	Magnus	Peterson, N.	Westrom
Cornish	Erickson	Hilty	Marquart	Ruth	Zellers
Dean	Faust	Holberg	Murphy, M.	Seifert	
DeLaForest	Finstad	Hoppe	Nornes	Severson	
Demmer	Fritz	Hosch	Olin	Shimanski	

Those who voted in the negative were:

Anzelc	Erhardt	Kalin	Masin	Peterson, S.	Thissen
Atkins	Gardner	Knuth	McFarlane	Poppe	Tillberry
Benson	Greiling	Kranz	McNamara	Rukavina	Tingelstad
Bigham	Hansen	Laine	Moe	Ruud	Tschumper
Bly	Hausman	Lesch	Morgan	Sailer	Wagenius
Brown	Hilstrom	Liebling	Morrow	Scalze	Walker
Brynaert	Hornstein	Lieder	Mullery	Sertich	Welti
Bunn	Hortman	Lillie	Murphy, E.	Simon	Winkler
Carlson	Huntley	Loeffler	Nelson	Slawik	Wollschlager
Clark	Jaros	Madore	Norton	Slocum	Spk. Kelliher
Davnie	Johnson	Mahoney	Paymar	Swails	
Dominguez	Kahn	Mariani	Peterson, A.	Thao	

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

Emmer moved to amend S. F. No. 2965, the second engrossment, as amended, as follows:

Page 1, line 9, delete the first "parents" and insert "mother and father"

Page 1, line 15, delete "other intended parent" and insert "intended father"

Page 1, line 16, delete "an intended parent" and insert "an intended father"

Page 1, line 18, delete the first "parents" and insert "mother and father" and delete the second "parents" and insert "mother and father"

Page 1, line 23, delete "parents" and insert "mother and father"

Page 2, line 4, delete "parents" and insert "mother and father"

Page 2, line 17, delete "parents" and insert "mother and father"

Page 2, line 27, delete "parent" and insert "mother or father"

Page 3, line 4, delete "parents" and insert "mother and father"

Page 3, line 34, delete the first "parents" and insert "mother and father" and delete the second "parents" and insert "mother and father"

Page 4, line 1, delete "parent or parents" and insert "mother and father"

Page 4, line 3, delete "parent or parents" and insert "mother or father or both"

Page 4, line 4, delete "parent" and insert "mother or father or both"

Page 4, line 5, delete "or parents"

Page 4, line 10, delete the first "parents" and insert "mother or father" and delete the second "parents" and insert "mother and father" and delete the third "parents" and insert "mother and father"

Page 4, line 12, delete "by one or more of the genetic parents" and insert "either the genetic mother, genetic father, or both"

Page 4, line 17, delete "parent or parents" and insert "mother or father or both"

Page 5, line 1, delete "parents" and insert "mother and father"

Page 5, line 3, delete "parent or parents" and insert "mother or father or both"

Page 5, line 4, delete "parent or parents" and insert "they"

Page 5, line 6, delete "the parent or parents" and insert "they"

Page 5, line 8, delete "the parent or parents" and insert "they"

Page 5, line 10, delete "the parent or parents" and insert "they"

Page 5, line 12, delete "the parent or parents" and insert "they"

Page 5, line 27, delete "parent or parents" and insert "mother or father or both"

Page 5, line 30, delete "parent or parents" and insert "mother or father or both"

Page 5, line 33, delete "parent or parents" and insert "mother or father or both"

Page 6, line 10, delete "parent or parents" and insert "mother or father or both"

Page 6, line 16, delete "parent or parents" and insert "mother or father or both"

Page 6, line 19, delete "parents" and insert "mother and father"

Page 6, line 19, delete "parents" and insert "mother or father or both"

Page 6, line 21, delete "parent or parents" and insert "mother or father or both"

Page 6, line 32, delete "parent or parents" and insert "mother or father or both"

Page 7, line 1, delete "parent or parents" and insert "mother or father or both"

Page 7, line 3, delete "parent or parents" and insert "mother or father or both"

Page 7, line 10, delete "parent or parents" and insert "mother or father or both"

Page 7, line 11, delete "parent or parents" and insert "mother or father or both"

Page 7, line 15, delete "parent or parents" and insert "mother or father or both"

Page 7, line 16, delete "parent or parents" and insert "mother or father or both"

Page 7, line 23, delete "parent or parents" and insert "mother or father or both"

Page 7, line 32, delete "parent or parents" and insert "mother or father or both"

Page 7, line 33, delete the first "parent or parents" and insert "mother or father or both" and delete the second "parent or parents" and insert "mother or father or both"

Page 8, line 13, delete "parent or parents" and insert "mother or father or both"

Page 8, line 24, delete "parent or parents" and insert "mother or father or both"

A roll call was requested and properly seconded.

The question was taken on the Emmer amendment and the roll was called. There were 44 yeas and 88 nays as follows:

Those who voted in the affirmative were:

Abeler	DeLaForest	Gottwalt	Kohls	Peppin	Urdahl
Anderson, B.	Demmer	Gunther	Lanning	Peterson, N.	Wardlow
Anderson, S.	Drazkowski	Hackbarth	Magnus	Ruth	Westrom
Beard	Eastlund	Hamilton	Nornes	Seifert	Zellers
Brod	Emmer	Heidgerken	Olson	Severson	
Buesgens	Erickson	Holberg	Otremba	Shimanski	
Cornish	Finstad	Hoppe	Ozment	Simpson	
Dean	Garofalo	Howes	Paulsen	Smith	

Those who voted in the negative were:

Anzelc	Eken	Jaros	Madore	Olin	Swails
Atkins	Erhardt	Johnson	Mahoney	Paymar	Thao
Benson	Faust	Juhnke	Mariani	Pelowski	Thissen
Bigham	Fritz	Kahn	Marquart	Peterson, A.	Tillberry
Bly	Gardner	Kalin	Masin	Peterson, S.	Tingelstad
Brown	Greiling	Knuth	McFarlane	Poppe	Tschumper
Brynaert	Hansen	Koenen	McNamara	Rukavina	Wagenius
Bunn	Hausman	Kranz	Moe	Ruud	Walker
Carlson	Haws	Laine	Morgan	Sailer	Ward
Clark	Hilstrom	Lenczewski	Morrow	Scalze	Welti
Davnie	Hilty	Lesch	Mullery	Sertich	Winkler
Dill	Hornstein	Liebling	Murphy, E.	Simon	Wollschlager
Dittrich	Hortman	Lieder	Murphy, M.	Slawik	Spk. Kelliher
Dominguez	Hosch	Lillie	Nelson	Slocum	
Doty	Huntley	Loeffler	Norton	Solberg	

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

Brod moved to amend S. F. No. 2965, the second engrossment, as amended, as follows:

Page 6, line 22, delete "immediately upon the children's birth"

A roll call was requested and properly seconded.

The question was taken on the Brod amendment and the roll was called. There were 56 yeas and 77 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Dill	Gunther	Kohls	Otremba	Smith
Anderson, S.	Doty	Hackbarth	Lanning	Ozment	Urdahl
Beard	Drazkowski	Hamilton	Lenczewski	Paulsen	Ward
Berns	Eastlund	Haws	Magnus	Peppin	Wardlow
Brod	Emmer	Heidgerken	Marquart	Peterson, N.	Westrom
Buesgens	Erickson	Holberg	McFarlane	Ruth	Zellers
Cornish	Finstad	Hoppe	McNamara	Seifert	
Dean	Fritz	Hosch	Nornes	Severson	
DeLaForest	Garofalo	Howes	Olin	Shimanski	
Demmer	Gottwalt	Koenen	Olson	Simpson	

Those who voted in the negative were:

Abeler	Brynaert	Eken	Hilstrom	Juhnke	Liebling
Anzelc	Bunn	Erhardt	Hilty	Kahn	Lieder
Atkins	Carlson	Faust	Hornstein	Kalin	Lillie
Benson	Clark	Gardner	Hortman	Knuth	Loeffler
Bigham	Davnie	Greiling	Huntley	Kranz	Madore
Bly	Dittrich	Hansen	Jaros	Laine	Mahoney
Brown	Dominguez	Hausman	Johnson	Lesch	Mariani

Masin	Murphy, M.	Peterson, S.	Sertich	Thao	Walker
Moe	Nelson	Poppe	Simon	Thissen	Welti
Morgan	Norton	Rukavina	Slawik	Tillberry	Winkler
Morrow	Paymar	Ruud	Slocum	Tingelstad	Wollschlager
Mullery	Pelowski	Sailer	Solberg	Tschumper	Spk. Kelliher
Murphy, E.	Peterson, A.	Scalze	Swails	Wagenius	

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

Buesgens moved to amend S. F. No. 2965, the second engrossment, as amended, as follows:

Page 6, line 2, after "must" insert "(i) be limited to actual costs incurred by the parties to fulfill the requirements of the contract, and may not permit any party to the contract to profit financially from the arrangement; and (ii) be"

Page 6, line 2, delete "have been"

Page 7, delete lines 1 and 2

Page 7, line 3, delete "(4)" and insert "(3)"

Page 8, after line 21, insert:

"(c) A contract which violates the prohibition on for-profit compensation arrangements as provided in section 257.90, paragraph (b), clause 5 shall be absolutely null and void."

A roll call was requested and properly seconded.

The question was taken on the Buesgens amendment and the roll was called. There were 51 yeas and 82 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Demmer	Garofalo	Hosch	Nornes	Simpson
Anderson, S.	Dill	Gottwalt	Howes	Olson	Smith
Beard	Dittrich	Gunther	Kohls	Otremba	Urdahl
Berns	Drazkowski	Hackbarth	Lanning	Ozment	Wardlow
Brod	Eastlund	Hamilton	Lenczewski	Peppin	Westrom
Buesgens	Emmer	Haws	Liebling	Ruth	Zellers
Cornish	Erickson	Heidgerken	Magnus	Seifert	
Dean	Finstad	Holberg	Morgan	Severson	
DeLaForest	Fritz	Hoppe	Murphy, M.	Shimanski	

Those who voted in the negative were:

Abeler	Brown	Dominguez	Greiling	Hortman	Kalin
Anzelc	Brynaert	Doty	Hansen	Huntley	Knuth
Atkins	Bunn	Eken	Hausman	Jaros	Koenen
Benson	Carlson	Erhardt	Hilstrom	Johnson	Kranz
Bigham	Clark	Faust	Hilty	Juhnke	Laine
Bly	Davnie	Gardner	Hornstein	Kahn	Lesch

Lieder	McFarlane	Olin	Rukavina	Solberg	Walker
Lillie	McNamara	Paulsen	Ruud	Swails	Ward
Loeffler	Moe	Paymar	Sailer	Thao	Welti
Madore	Morrow	Pelowski	Scalze	Thissen	Winkler
Mahoney	Mullery	Peterson, A.	Sertich	Tillberry	Wollschlager
Mariani	Murphy, E.	Peterson, N.	Simon	Tingelstad	Spk. Kelliher
Marquart	Nelson	Peterson, S.	Slawik	Tschumper	
Masin	Norton	Poppe	Slocum	Wagenius	

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

Severson moved to amend S. F. No. 2965, the second engrossment, as amended, as follows:

Page 3, delete subdivision 11 and insert:

"Subd. 11. **Intended parent.** "Intended parent" means an individual and the individual's legal spouse who enter into a gestational carrier contract with a gestational carrier pursuant to which the married couple will be the legal parents of the resulting child. Any reference to an intended parent includes both husband and wife for all purposes of sections 257.87 to 257.98. This term includes the intended mother, intended father, or both."

Page 3, after line 21, insert:

"Subd. 14. **Medical need.** "Medical need" means infertility between a husband and wife."

Renumber the subdivisions in sequence

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

Paulsen was excused between the hours of 4:45 p.m. and 9:20 p.m.

Emmer offered an amendment to S. F. No. 2965, the second engrossment, as amended.

POINT OF ORDER

Kahn raised a point of order pursuant to rule 3.21 that the Emmer amendment was not in order. Speaker pro tempore Thissen ruled the point of order well taken and the Emmer amendment out of order.

Eastlund moved to amend S. F. No. 2965, the second engrossment, as amended, as follows:

Page 8, after line 31, insert:

"Sec. 14. **[257.99] IDENTIFYING GENETIC DATA.**

(a) The Department of Health shall maintain identifying genetic information for donors who contribute a gamete or gametes for the purpose of in vitro fertilization or implantation in another.

(b) The Department of Health shall release the identifying genetic information, upon request, to the person, age 18 or older, who was born as a result of the donor's contribution of a gamete or gametes for the in vitro fertilization or implantation that resulted in the birth of the person."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

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

Emmer moved to amend S. F. No. 2965, the second engrossment, as amended, as follows:

Page 7, after line 6, insert:

"Sec. 6. **[257.905] ATTORNEY'S FEES PROHIBITED.**

An attorney providing legal services to any party to a gestational carrier contract, including services to a gestational carrier or to the intended parent of a child, may not charge a fee for services related to the contract."

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 Emmer amendment and the roll was called. There were 38 yeas and 94 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	DeLaForest	Finstad	Hoppe	Ozment	Wardlow
Anderson, S.	Demmer	Garofalo	Kohls	Peppin	Westrom
Beard	Dill	Gottwalt	Lanning	Seifert	Zellers
Brod	Drazkowski	Gunther	Magnus	Severson	
Buesgens	Eastlund	Hackbarth	Nornes	Shimanski	
Cornish	Emmer	Hamilton	Olson	Simpson	
Dean	Erickson	Heidgerken	Otremba	Urdahl	

Those who voted in the negative were:

Abeler	Bunn	Faust	Holberg	Kahn	Lieder
Anzelc	Carlson	Fritz	Hornstein	Kalin	Lillie
Atkins	Clark	Gardner	Hortman	Knuth	Loeffler
Benson	Davnie	Greiling	Hosch	Koenen	Madore
Berns	Dittrich	Hansen	Howes	Kranz	Mahoney
Bigham	Dominguez	Hausman	Huntley	Laine	Mariani
Bly	Doty	Haws	Jaros	Lenczewski	Marquart
Brown	Eken	Hilstrom	Johnson	Lesch	Masin
Brynaert	Erhardt	Hilty	Juhnke	Liebling	McFarlane

McNamara	Nelson	Peterson, S.	Sertich	Thao	Ward
Moe	Norton	Poppe	Simon	Thissen	Walti
Morgan	Olin	Rukavina	Slawik	Tillberry	Winkler
Morrow	Paymar	Ruth	Slocum	Tingelstad	Wollschlager
Mullery	Pelowski	Ruud	Smith	Tschumper	Spk. Kelliher
Murphy, E.	Peterson, A.	Sailer	Solberg	Wagenius	
Murphy, M.	Peterson, N.	Scalze	Swails	Walker	

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

Severson moved to amend S. F. No. 2965, the second engrossment, as amended, as follows:

Page 8, after line 5, insert:

"Sec. 8. **[257.936] SEXUAL ACTIVITY PROHIBITED.**

A gestational carrier may not engage in any unprotected sexual activity until the carrier has been successfully impregnated pursuant to the terms of the gestational carrier contract."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

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

S. F. No. 2965, A bill for an act relating to children; regulating gestational carrier arrangements; establishing intended parents rights under assisted reproduction; amending Minnesota Statutes 2006, section 257.56; proposing coding for new law in Minnesota Statutes, chapter 257.

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 86 yeas and 46 nays as follows:

Those who voted in the affirmative were:

Abeler	Davnie	Hilstrom	Koenen	Marquart	Ozment
Anzelc	DeLaForest	Hilty	Kranz	McFarlane	Paymar
Atkins	Dittrich	Hoppe	Laine	McNamara	Peterson, A.
Benson	Dominguez	Hornstein	Lenczewski	Moe	Peterson, S.
Berns	Doty	Hortman	Lesch	Morgan	Poppe
Bigham	Eken	Huntley	Liebling	Morrow	Rukavina
Bly	Erhardt	Jaros	Lieder	Mullery	Ruud
Brown	Faust	Johnson	Lillie	Murphy, E.	Sailer
Brynaert	Gardner	Juhnke	Loeffler	Murphy, M.	Scalze
Bunn	Greiling	Kahn	Madore	Nelson	Sertich
Carlson	Hansen	Kalin	Mahoney	Norton	Simon
Clark	Hausman	Knuth	Mariani	Olin	Slawik

Slocum	Thao	Tingelstad	Walker	Wollschlager
Solberg	Thissen	Tschumper	Walti	Spk. Kelliher
Swails	Tillberry	Wagenius	Winkler	

Those who voted in the negative were:

Anderson, B.	Dill	Gottwalt	Howes	Pelowski	Smith
Anderson, S.	Drazkowski	Gunther	Kohls	Peppin	Urdahl
Beard	Eastlund	Hackbarth	Lanning	Peterson, N.	Ward
Brod	Emmer	Hamilton	Magnus	Ruth	Wardlow
Buesgens	Erickson	Haws	Masin	Seifert	Westrom
Cornish	Finstad	Heidgerken	Nornes	Severson	Zellers
Dean	Fritz	Holberg	Olson	Shimanski	
Demmer	Garofalo	Hosch	Otremba	Simpson	

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

S. F. No. 3193 was reported to the House.

Tingelstad moved to amend S. F. No. 3193, the first engrossment, as follows:

Page 3, line 22, delete "(a)"

Page 3, delete lines 28 to 31

Page 5, line 29, after "3." insert "and" and delete "and 5."

ReNUMBER the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Speaker pro tempore Thissen called Juhnke to the Chair.

Thissen was excused between the hours of 5:20 p.m. and 7:00 p.m.

S. F. No. 3193, A bill for an act relating to adoption; modifying provisions governing access to adoption records and original birth certificates; amending Minnesota Statutes 2006, sections 13.465, subdivision 8; 144.218, subdivision 1; 144.225, subdivision 2; 144.2252; 144.226, subdivision 1; 259.89, subdivision 1; 260C.317, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 144; repealing Minnesota Statutes 2006, sections 259.83, subdivision 3; 259.89, subdivisions 2, 3, 4, 5.

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 78 yeas and 52 nays as follows:

Those who voted in the affirmative were:

Abeler	Davnie	Hornstein	Lenczewski	Murphy, E.	Slocum
Anzelc	Dominguez	Hortman	Lesch	Murphy, M.	Swails
Atkins	Eken	Hosch	Liebling	Nelson	Thao
Benson	Erhardt	Huntley	Lieder	Norton	Tillberry
Berns	Faust	Jaros	Madore	Ozment	Tingelstad
Bigham	Fritz	Johnson	Mahoney	Peterson, A.	Tschumper
Bly	Gardner	Juhnke	Mariani	Peterson, S.	Urdahl
Brod	Greiling	Kahn	McFarlane	Rukavina	Wagenius
Brynaert	Hausman	Kalin	McNamara	Ruud	Walker
Bunn	Haws	Knuth	Moe	Sailer	Wardlow
Carlson	Heidgerken	Koenen	Morgan	Sertich	Westrom
Clark	Hilstrom	Kranz	Morrow	Simon	Wollschlager
Cornish	Hilty	Laine	Mullery	Slawik	Spk. Kelliher

Those who voted in the negative were:

Anderson, B.	Dittrich	Gunther	Loeffler	Pelowski	Simpson
Anderson, S.	Doty	Hackbarth	Magnus	Peppin	Smith
Beard	Drazkowski	Hansen	Marquart	Peterson, N.	Solberg
Brown	Eastlund	Holberg	Masin	Poppe	Ward
Buesgens	Emmer	Hoppe	Nornes	Ruth	Walti
Dean	Erickson	Howes	Olin	Scalze	Winkler
DeLaForest	Finstad	Kohls	Olson	Seifert	Zellers
Demmer	Garofalo	Lanning	Otremba	Severson	
Dill	Gottwalt	Lillie	Paymar	Shimanski	

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

H. F. No. 3090 was reported to the House.

Morrow moved to amend H. F. No. 3090, the first engrossment, as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2006, section 174.02, subdivision 2, is amended to read:

Subd. 2. **Unclassified positions.** The commissioner may establish four positions in the unclassified service at the deputy and assistant commissioner, assistant to commissioner or personal secretary levels. No more than two of these positions shall be at the deputy commissioner level. The commissioner or a deputy commissioner must be licensed as a professional engineer under section 326.02, and serve as chief engineer."

The motion prevailed and the amendment was adopted.

H. F. No. 3090, A bill for an act relating to transportation; modifying provisions relating to certain positions in Department of Transportation; amending Minnesota Statutes 2006, section 174.02, subdivision 2.

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

The question was taken on the passage of the bill and the roll was called. There were 104 yeas and 26 nays as follows:

Those who voted in the affirmative were:

Abeler	Dominguez	Hornstein	Lillie	Otremba	Swails
Anzelc	Doty	Hortman	Loeffler	Paymar	Thao
Atkins	Eken	Hosch	Madore	Pelowski	Tillberry
Benson	Erhardt	Howes	Magnus	Peppin	Tingelstad
Berns	Faust	Huntley	Mahoney	Peterson, A.	Tschumper
Bigham	Fritz	Jaros	Mariani	Peterson, N.	Urdahl
Bly	Gardner	Johnson	Marquart	Peterson, S.	Wagenius
Brown	Greiling	Juhnke	Masin	Poppe	Ward
Brynaert	Gunther	Kahn	Moe	Rukavina	Wardlow
Bunn	Hackbarth	Kalin	Morgan	Ruud	Welti
Carlson	Hamilton	Knuth	Morrow	Sailer	Westrom
Clark	Hansen	Koenen	Mullery	Scalze	Winkler
Cornish	Hausman	Kranz	Murphy, E.	Sertich	Wollschlager
Davnie	Haws	Laine	Murphy, M.	Simon	Spk. Kelliher
Dean	Heidgerken	Lenczewski	Nelson	Slawik	
DeLaForest	Hilstrom	Lesch	Nornes	Slocum	
Dill	Hilty	Liebling	Norton	Smith	
Dittrich	Hoppe	Lieder	Olin	Solberg	

Those who voted in the negative were:

Anderson, B.	Demmer	Finstad	Lanning	Ruth	Zellers
Anderson, S.	Drazkowski	Garofalo	McFarlane	Seifert	
Beard	Eastlund	Gottwalt	McNamara	Severson	
Brod	Emmer	Holberg	Olson	Shimanski	
Buesgens	Erickson	Kohls	Ozment	Simpson	

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

Sertich moved 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.

Dill was excused between the hours of 9:20 p.m. and 11:55 p.m.

The following Conference Committee Report was received:

CONFERENCE COMMITTEE REPORT ON H. F. NO. 3391

A bill for an act relating to health care reform; increasing affordability and continuity of care for state health care programs; modifying health care provisions; providing subsidies for employee share of employer-subsidized insurance in certain cases; establishing the Health Care Transformation Commission; creating an affordability standard; implementing a statewide health improvement program; requiring an evaluation of mandated health benefits; requiring a payment system to encourage provider innovation; requiring studies and reports; appropriating money; amending Minnesota Statutes 2006, sections 62Q.025, by adding a subdivision; 256.01, subdivision 18; 256B.056, by adding a subdivision; 256B.057, subdivision 8; 256B.69, by adding a subdivision; 256L.05, by adding a subdivision; 256L.06, subdivision 3; 256L.07, subdivision 3, by adding a subdivision; 256L.15, by adding a subdivision; Minnesota Statutes 2007 Supplement, sections 256.01, subdivision 2b; 256B.056, subdivision 10; 256L.03, subdivisions 3, 5; 256L.04, subdivisions 1, 7; 256L.05, subdivision 3a; 256L.07, subdivision 1; 256L.15, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 145; 256B; proposing coding for new law as Minnesota Statutes, chapter 62U; repealing Minnesota Statutes 2006, section 256L.15, subdivision 3.

May 11, 2008

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 3391 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H. F. No. 3391 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

PUBLIC HEALTH

Section 1. **[145.986] STATEWIDE HEALTH IMPROVEMENT PROGRAM.**

Subdivision 1. **Goals.** It is the goal of the state to substantially reduce the percentage of Minnesotans who are obese or overweight, and to reduce the use of tobacco.

Subd. 2. **Grants to local communities.** (a) Beginning July 1, 2009, the commissioner of health shall award grants to community health boards established pursuant to section 145A.09, and tribal governments to convene, coordinate, and implement evidence-based strategies targeted at reducing the percentage of Minnesotans who are obese or overweight and to reduce the use of tobacco.

(b) Grantee activities shall:

(1) be based on scientific evidence;

(2) be based on community input;

(3) address behavior change at the individual, community, and systems levels;

(4) occur in community, school, worksite, and health care settings; and

(5) be focused on policy, systems, and environmental changes that support healthy behaviors.

(c) To receive a grant under this section, community health boards and tribal governments must submit proposals to the commissioner. A local match of ten percent of the total funding allocation is required. This local match may include funds donated by community partners.

(d) In order to receive a grant, community health boards and tribal governments must submit a health improvement plan to the commissioner of health for approval. The commissioner may require the plan to identify a community leadership team, community partners, and a community action plan that includes an assessment of area strengths and needs, proposed action strategies, technical assistance needs, and a staffing plan.

(e) The grant recipient must implement the health improvement plan, evaluate the effectiveness of the interventions, and modify or discontinue interventions found to be ineffective.

(f) Grant recipients shall receive the standard base amount and a standard per capita amount to be established by the commissioner.

(g) By January 15, 2011, the commissioner of health shall recommend whether any funding should be distributed to community health boards and tribal governments based on health disparities demonstrated in the populations served.

(h) Grant recipients shall report their activities and their progress towards the outcomes established under subdivision 3 to the commissioner in a format and at a time specified by the commissioner.

(i) All grant recipients shall be held accountable for making progress toward the measurable outcomes established in subdivision 3. The commissioner shall require a corrective action plan and may reduce the funding level of grant recipients that do not make adequate progress toward the measurable outcomes.

Subd. 3. **Outcomes.** (a) The commissioner shall set measurable outcomes to meet the goals specified in subdivision 1, and annually review the progress of grant recipients in meeting the outcomes.

(b) The commissioner shall measure current public health status, using existing measures and data collection systems when available, to determine baseline data against which progress shall be monitored.

Subd. 4. **Technical assistance and oversight.** The commissioner shall provide content expertise, technical expertise, and training to grant recipients and advice on evidence-based strategies, including those based on populations and types of communities served. The commissioner shall ensure that the statewide health improvement program meets the outcomes established under subdivision 3 by conducting a comprehensive statewide evaluation and assisting grant recipients to modify or discontinue interventions found to be ineffective.

Subd. 5. **Evaluation.** Using the outcome measures established in subdivision 3, the commissioner shall conduct a biennial evaluation of the statewide health improvement program funded under this section. Grant recipients shall cooperate with the commissioner in the evaluation and provide the commissioner with the information necessary to conduct the evaluation.

Subd. 6. **Report.** The commissioner shall submit a biennial report to the legislature on the statewide health improvement program funded under this section. These reports must include information on grant recipients, activities that were conducted using grant funds, evaluation data, and outcome measures, if available. In addition, the commissioner shall provide recommendations on future areas of focus for health improvement. These reports are due by January 15 of every other year, beginning in 2010. In the report due on January 15, 2010, the commissioner shall include recommendations on a sustainable funding source for the statewide health improvement program other than the health care access fund.

Subd. 7. **Supplantation of existing funds.** Community health boards and tribal governments must use funds received under this section to develop new programs, expand current programs that work to reduce the percentage of Minnesotans who are obese or overweight, or who use tobacco, or replace discontinued state or federal funds previously used to reduce the percentage of Minnesotans who are obese or overweight, or who use tobacco. Funds must not be used to supplant current state or local funding to community health boards or tribal governments used to reduce the percentage of Minnesotans who are obese or overweight or to reduce tobacco use.

ARTICLE 2

HEALTH CARE HOMES

Section 1. **[256B.0751] HEALTH CARE HOMES.**

Subdivision 1. **Definitions.** (a) For purposes of sections 256B.0751 to 256B.0753, the following definitions apply.

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

(c) "Commissioners" means the commissioner of human services and the commissioner of health, acting jointly.

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

(e) "Personal clinician" means a physician licensed under chapter 147, a physician assistant registered and practicing under chapter 147A, an advanced practice nurse licensed and registered to practice under chapter 148, and other health care providers as determined by the commissioner of health.

(f) "State health care program" means the medical assistance, MinnesotaCare, and general assistance medical care programs.

Subd. 2. **Development and implementation of standards.** (a) By July 1, 2009, the commissioners of health and human services shall develop and implement standards of certification for health care homes for state health care programs. In developing these standards, the commissioners shall consider existing standards developed by national independent accrediting and medical home organizations. The standards developed by the commissioners must meet the following criteria:

(1) emphasize, enhance, and encourage the use of primary care, and include the use of primary care physicians, advanced practice nurses, and physician assistants as personal clinicians, as well as appropriate specialists if they provide care according to these standards;

(2) focus on delivering high-quality, efficient, and effective health care services, enhancing the experience of patients and their families, and appropriately engaging patients and their families in the decision-making process;

(3) encourage patient-centered care, including active participation by the patient and family or a legal guardian, or a health care agent as defined in chapter 145C, as appropriate in decision making, care plan development, and include patient representation on practice level quality improvement teams;

(4) provide patients with a consistent, ongoing contact with a personal clinician to ensure continuous and appropriate care for the patient's condition;

(5) ensure that health care homes develop and maintain appropriate comprehensive care plans for their patients with complex or chronic conditions, including the provision of an initial health assessment in order to identify all of the patient's complex or chronic health conditions;

(6) enable and encourage utilization of a range of qualified health care professionals to provide care, including dedicated care coordinators, in a manner that enables providers to practice to the fullest extent of their license;

(7) focus initially on patients who have or are at risk of developing chronic health conditions;

(8) provide care that is appropriate to the patient's race, ethnicity, and language;

(9) incorporate measures of quality and cost of care;

(10) ensure the use of health information technology and systematic follow-up through the use of patient registries; and

(11) encourage the use of evidence-based health care, patient decision-making aids that provide patients with information about treatment options and their associated benefits, risks, costs, and comparative outcomes, and other clinical decision support tools.

(b) In developing these standards, the commissioners shall consult with national and local organizations working on health care home models, health care providers, relevant state agencies, health plans, and hospitals. The commissioners may satisfy this requirement by continuing the provider directed care coordination advisory committee.

(c) For the purposes of developing and implementing these standards, the commissioners are exempt from the provisions of chapter 14, including the specific provisions in section 14.386.

Subd. 3. **Requirements for clinicians certified as health care homes.** (a) A personal clinician or a primary care clinic may be certified as a health care home. If a primary care clinic is certified, all of the primary care clinics' clinicians must meet the criteria of a health care home. In order to be certified as a health care home, a clinician or clinic must meet the standards set by the commissioners in accordance with this section. Certification as a health care home is voluntary. In order to maintain their status as health care homes, clinicians or clinics must renew their certification annually.

(b) Clinicians or clinics certified as health care homes must offer their health care home services to all their patients with complex or chronic health conditions who are interested in participation.

(c) Health care homes must participate in the health care home learning collaborative established under subdivision 5.

Subd. 4. **Alternative models.** Nothing in this section shall preclude the continued development of existing medical or health care home projects currently operating or under development by the commissioner of human services or preclude the commissioner from establishing alternative models and payment mechanisms for persons

who are enrolled in integrated Medicare and Medicaid programs under section 256B.69, subdivisions 23 and 28, are enrolled in managed care long-term care programs under section 256B.69, subdivision 6, paragraph (b), are dually eligible for Medicare and medical assistance, are in the waiting period for Medicare, or who have other primary coverage.

Subd. 5. **Health care home collaborative.** By July 1, 2009, the commissioners shall establish a health care home collaborative to provide an opportunity for health care homes and state agencies to exchange information related to quality improvement and best practices.

Subd. 6. **Evaluation and continued development.** (a) For continued certification under this section, health care homes must meet process, outcome, and quality standards as developed and specified by the commissioners. The commissioners shall collect data from health care homes necessary for monitoring compliance with certification standards and for evaluating the impact of health care homes on health care quality, cost, and outcomes.

(b) The commissioners may contract with a private entity to perform an evaluation of the effectiveness of health care homes. Data collected under this subdivision is classified as nonpublic data under chapter 13.

Subd. 7. **Outreach.** Upon implementation of the certification process and standards under subdivision 1, the commissioner shall encourage state health care program enrollees who have a complex or chronic condition to select a primary care clinic with clinicians who have been certified as health care homes.

Sec. 2. [256B.0752] CARE COORDINATION FEE.

Subdivision 1. **Development.** The commissioner of human services shall develop a payment system that provides per-person care coordination payments to health care providers for providing care coordination services and directly managing onsite or employing care coordinators. In order to be eligible for a care coordination payment, a health care provider must be certified as a health care home by the commissioners of human services and health based on the certification standards for health care homes established under section 256B.0751. The care coordination payment system must vary the fees paid by thresholds of care complexity, with the highest fees being paid for care provided to individuals requiring the most intensive care coordination and those who face racial, ethnic, or language barriers. The commissioner may determine a schedule for phasing-in care coordination fees such that the fees will be applied first to individuals who have, or are at risk of developing, complex or chronic health conditions and coordinate with the implementation of the provider-directed care coordination payments under section 256B.0625, subdivision 51. Development of the payment system must be completed by January 1, 2010.

Subd. 2. **Payment of care coordination fee.** By July 1, 2010, the commissioner of human services shall pay each certified health care home a per-person care coordination fee for providing care coordination services for each state health care program enrollee served under the fee-for-service system. The care coordination fee must be determined by the commissioner in contracts with certified health care homes. Payment of the care coordination fee is contingent on the health care home meeting the certification standards for health care homes described in section 256B.0751. The care coordination fee is in addition to reimbursement received by a health care home under the medical assistance fee-for-service payment system for health care services.

Subd. 3. **Managed care and county-based purchasing.** By July 1, 2010, the commissioner of human services shall require managed care and county-based purchasing plans serving state health care program enrollees under sections 256B.69 and 256B.692, and chapters 256D and 256L to implement a care coordination payment system for state health care program enrollees who are provided care coordination services in health care homes certified under section 256B.0751. The payment system shall be designed in accordance with section 62U.05.

Subd. 4. **Cost neutrality.** If initial savings from implementation of health care homes are not sufficient to allow implementation of the care coordination fee in a cost-neutral manner, the commissioner may make recommendations to the legislature on reallocating costs within the health care system.

EFFECTIVE DATE. This section is effective July 1, 2010, or upon federal approval, whichever is later.

Sec. 3. **[256B.0753] HEALTH CARE HOME REPORTING REQUIREMENTS.**

Subdivision 1. **Standards and criteria review.** Prior to implementation, the commissioners shall report the certification standards and evaluation criteria established in sections 256B.0751 and 256B.0752 to the Legislative Commission on Health Care Access. These standards are not subject to chapter 14, and the specific provisions in section 14.386 do not apply.

Subd. 2. **Annual reports on implementation and administration.** The commissioners shall report annually to the legislature on the implementation and administration of the health care home model for state health care program enrollees in the fee-for-service, managed care, and county-based purchasing sectors, beginning January 15, 2011, and each January 15 thereafter. The annual report must include the cost benefit analysis of the implementation of the health care home model for the state public health care programs.

Subd. 3. **Evaluation reports.** The commissioners shall provide to the legislature comprehensive evaluations of the health care home model three years and five years after implementation. The report must include:

(1) the number of state health care program enrollees in health care homes, the number and characteristics of enrollees with complex or chronic conditions, identified by income, race, ethnicity, and language;

(2) the number and geographic distribution of health care home providers;

(3) the performance and quality of care of health care homes;

(4) measures of preventive care;

(5) health care home payment arrangements, and costs related to implementation and payment of care coordination fees; and

(6) the estimated impact of health care homes on health disparities.

Sec. 4. **[256B.766] PRIMARY CARE PHYSICIAN REIMBURSEMENT RATE INCREASE.**

(a) Effective for physician services rendered on or after January 1, 2009, the commissioner shall increase reimbursements to primary care physicians deemed by the commissioner to meet the requirements in paragraph (b). Reimbursement may be increased by not more than 50 percent above the reimbursement rate that would otherwise be paid to the primary care provider. Payments to health plan companies shall be adjusted to reflect increased reimbursement to primary care physicians as approved by the commissioner.

(b) The commissioner, in collaboration with the Office of Rural Health, shall determine areas of the state in need of primary care physicians. By September 1 of each year, beginning September 1, 2008, the commissioner shall accept applications from primary care physicians who agree to practice in a designated underserved area for a period of no less than five years. The commissioner shall determine participant eligibility based on their suitability for practice serving a designated geographic area.

(c) The commissioner may reconsider the designated areas, as necessary. A primary care physician who agrees to practice in an area designated as underserved shall receive the increased reimbursement rates for at least a period of five years, unless the physician discontinues practicing in the designated area during the five-year period.

(d) A health care clinic or medical group may submit applications under this section for primary care physicians who will be hired to fill vacancies, prior to filling the vacant position.

Sec. 5. **WORKFORCE SHORTAGE STUDY.**

To address health care workforce shortages, the commissioner of health, in consultation with the health licensing boards and professional associations, shall study changes necessary in health professional licensure and regulation to ensure full utilization of advanced practice registered nurses, physician assistants, and other licensed health care professionals in the health care home and primary delivery system. The commissioner shall make recommendations to the legislature by January 15, 2009.

ARTICLE 3

INCREASING ACCESS; CONTINUITY OF CARE

Section 1. **[124D.1115] FREE AND REDUCED SCHOOL LUNCH PROGRAM DATA SHARING.**

(a) Each school participating in the federal school lunch program shall electronically send to the Department of Education the eligibility information on each child who is eligible for the free and reduced lunch program, unless the child's parent or legal guardian after being notified of the potential disclosure of this information for the limited purpose stated in paragraph (b), elects not to have the information disclosed.

(b) Pursuant to United States Code, title 42, section 1758(b)(6)(A), the Department of Education shall enter into an agreement with the Department of Human Services to share the eligibility information provided by each school in paragraph (a) for the limited purpose of identifying children who may be eligible for medical assistance or MinnesotaCare. The Department of Human Services must ensure that this information remains confidential and shall only be used for this purpose. Any unauthorized disclosure shall be subject to a penalty.

Sec. 2. Minnesota Statutes 2006, section 256.01, is amended by adding a subdivision to read:

Subd. 27. **Automation and coordination for state health care programs.** (a) For purposes of this subdivision, "state health care program" means the medical assistance, MinnesotaCare, or general assistance medical care programs.

(b) By July 1, 2009, the commissioner shall improve coordination between state health care programs and social service programs including, but not limited to WIC, free and reduced school lunch programs, and food stamps, and shall develop and use automated systems to identify persons served by social service programs who may be eligible for, but are not enrolled in, a state health care program. By January 15, 2009, the commissioner shall, as necessary, identify and recommend to the legislature statutory changes to state health care and social service programs necessary to improve coordination and automation of outreach and enrollment efforts.

(c) By January 15, 2009, the commissioner shall establish and implement an automated process to send out state health care program renewal forms in the most common foreign languages, to those state health care program enrollees who request renewal forms in those foreign languages. The commissioner, as part of the initial enrollment process, shall inform applicants of the availability of this option.

(d) Beginning July 1, 2008, the commissioner, county social service agencies, and health care providers shall update state health care program enrollee addresses and related contact information, at the time of each enrollee contact.

EFFECTIVE DATE. This section is effective July 1, 2008.

Sec. 3. Minnesota Statutes 2007 Supplement, section 256.962, subdivision 5, is amended to read:

Subd. 5. **Incentive program.** Beginning January 1, 2008, the commissioner shall establish an incentive program for organizations that directly identify and assist potential enrollees in filling out and submitting an application. For each applicant who is successfully enrolled in MinnesotaCare, medical assistance, or general assistance medical care, the commissioner, within the available appropriation, shall pay the organization a ~~\$20~~ \$25 application assistance bonus. The organization may provide an applicant a gift certificate or other incentive upon enrollment.

Sec. 4. Minnesota Statutes 2007 Supplement, section 256.962, subdivision 6, is amended to read:

Subd. 6. **School districts.** (a) At the beginning of each school year, a school district shall provide information to each student on the availability of health care coverage through the Minnesota health care programs.

(b) For each child who is determined to be eligible for ~~a the free or and reduced priced school lunch program~~, the district shall provide the child's family with ~~an application for the Minnesota health care programs and~~ information on how to obtain an application for the Minnesota health care programs and application assistance.

(c) A district shall also ensure that applications and information on application assistance are available at early childhood education sites and public schools located within the district's jurisdiction.

(d) Each district shall designate an enrollment specialist to provide application assistance and follow-up services with families ~~who are eligible for the reduced or free lunch program or~~ who have indicated an interest in receiving information or an application for the Minnesota health care program. A district is eligible for the application assistance bonus described in subdivision 5.

(e) Each school district shall provide on their Web site a link to information on how to obtain an application and application assistance.

Sec. 5. Minnesota Statutes 2006, section 256B.057, subdivision 8, is amended to read:

Subd. 8. **Children under age two.** Medical assistance may be paid for a child under two years of age whose countable family income is above 275 percent of the federal poverty guidelines for the same size family but less than or equal to ~~280~~ 305 percent of the federal poverty guidelines for the same size family.

EFFECTIVE DATE. This section is effective July 1, 2010, or upon federal approval, whichever is later.

Sec. 6. Minnesota Statutes 2007 Supplement, section 256L.04, subdivision 1, is amended to read:

Subdivision 1. **Families with children.** (a) Families with children with family income equal to or less than ~~275~~ 300 percent of the federal poverty guidelines for the applicable family size shall be eligible for MinnesotaCare according to this section. All other provisions of sections 256L.01 to 256L.18, including the insurance-related barriers to enrollment under section 256L.07, shall apply unless otherwise specified.

(b) Parents who enroll in the MinnesotaCare program must also enroll their children, if the children are eligible. Children may be enrolled separately without enrollment by parents. However, if one parent in the household enrolls, both parents must enroll, unless other insurance is available. If one child from a family is enrolled, all children must be enrolled, unless other insurance is available. If one spouse in a household enrolls, the other spouse in the household must also enroll, unless other insurance is available. Families cannot choose to enroll only certain uninsured members.

(c) Beginning October 1, 2003, the dependent sibling definition no longer applies to the MinnesotaCare program. These persons are no longer counted in the parental household and may apply as a separate household.

~~(d) Beginning July 1, 2003, or upon federal approval, whichever is later, parents are not eligible for MinnesotaCare if their gross income exceeds \$50,000.~~

~~(e)~~ Children formerly enrolled in medical assistance and automatically deemed eligible for MinnesotaCare according to section 256B.057, subdivision 2c, are exempt from the requirements of this section until renewal.

EFFECTIVE DATE. This section is effective July 1, 2010, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 7. Minnesota Statutes 2007 Supplement, section 256L.04, subdivision 7, is amended to read:

Subd. 7. **Single adults and households with no children.** (a) The definition of eligible persons includes all individuals and households with no children who have gross family incomes that are equal to or less than 200 percent of the federal poverty guidelines.

(b) Effective July 1, 2009, the definition of eligible persons includes all individuals and households with no children who have gross family incomes that are equal to or less than 215 percent of the federal poverty guidelines.

(c) Effective July 1, 2010, the definition of eligible persons includes all individuals and households with no children who have gross family incomes that are equal to or less than 300 percent of the federal poverty guidelines.

Sec. 8. Minnesota Statutes 2007 Supplement, section 256L.05, subdivision 3a, is amended to read:

Subd. 3a. **Renewal of eligibility.** (a) Beginning July 1, 2007, an enrollee's eligibility must be renewed every 12 months. The 12-month period begins in the month after the month the application is approved.

(b) Each new period of eligibility must take into account any changes in circumstances that impact eligibility and premium amount. An enrollee must provide all the information needed to redetermine eligibility by the first day of the month that ends the eligibility period. If there is no change in circumstances, the enrollee may renew eligibility at designated locations that include community clinics and health care providers' offices. The designated sites shall forward the renewal forms to the commissioner. The premium for the new period of eligibility must be received as provided in section 256L.06 in order for eligibility to continue.

(c) For single adults and households with no children formerly enrolled in general assistance medical care and enrolled in MinnesotaCare according to section 256D.03, subdivision 3, the first period of eligibility begins the month the enrollee submitted the application or renewal for general assistance medical care.

(d) An enrollee who fails to submit renewal forms and related documentation necessary for verification of continued eligibility in a timely manner shall remain eligible for one additional month beyond the end of the current eligibility period, before being disenrolled. The enrollee remains responsible for MinnesotaCare premiums for the additional month.

EFFECTIVE DATE. This section is effective January 1, 2009, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 9. Minnesota Statutes 2006, section 256L.05, is amended by adding a subdivision to read:

Subd. 6. **Delayed verification.** On the basis of information provided on the completed application, an applicant whose gross income is less than 90 percent of the applicable income standard and meets all other eligibility requirements, including compliance at the time of application with citizenship or nationality documentation requirements under section 256L.04, subdivision 10, must be determined eligible and enrolled upon payment of premiums according to subdivision 3. The applicant shall provide all required verifications within 60 days' notice of the eligibility determination, or eligibility shall be denied or canceled. Applicants who are denied or canceled for failure to provide all required verifications are not eligible for coverage using the delayed verification procedures specified in this subdivision for 12 months.

EFFECTIVE DATE. This section is effective January 1, 2009, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 10. Minnesota Statutes 2006, section 256L.06, subdivision 3, is amended to read:

Subd. 3. **Commissioner's duties and payment.** (a) Premiums are dedicated to the commissioner for MinnesotaCare.

(b) The commissioner shall develop and implement procedures to: (1) require enrollees to report changes in income; (2) adjust sliding scale premium payments, based upon both increases and decreases in enrollee income, at the time the change in income is reported; and (3) disenroll enrollees from MinnesotaCare for failure to pay required premiums. Failure to pay includes payment with a dishonored check, a returned automatic bank withdrawal, or a refused credit card or debit card payment. The commissioner may demand a guaranteed form of payment, including a cashier's check or a money order, as the only means to replace a dishonored, returned, or refused payment.

(c) Premiums are calculated on a calendar month basis and may be paid on a monthly, quarterly, or semiannual basis, with the first payment due upon notice from the commissioner of the premium amount required. The commissioner shall inform applicants and enrollees of these premium payment options. Premium payment is required before enrollment is complete and to maintain eligibility in MinnesotaCare. Premium payments received before noon are credited the same day. Premium payments received after noon are credited on the next working day.

(d) Nonpayment of the premium will result in disenrollment from the plan effective ~~for the first day of the calendar month following~~ the calendar month for which the premium was due. Persons disenrolled for nonpayment or who voluntarily terminate coverage from the program may not reenroll until four calendar months have elapsed. ~~Persons disenrolled for nonpayment who pay all past due premiums as well as current premiums due, including premiums due for the period of disenrollment, within 20 days of disenrollment, shall be reenrolled retroactively to the first day of disenrollment.~~ The commissioner shall waive premiums for coverage provided under this paragraph to persons disenrolled for nonpayment who reapply under section 256L.05, subdivision 3b. Persons disenrolled for nonpayment or who voluntarily terminate coverage from the program may not reenroll for four calendar months unless the person demonstrates good cause for nonpayment. Good cause does not exist if a person chooses to pay other family expenses instead of the premium. The commissioner shall define good cause in rule.

EFFECTIVE DATE. This section is effective January 1, 2009, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 11. Minnesota Statutes 2007 Supplement, section 256L.07, subdivision 1, is amended to read:

Subdivision 1. **General requirements.** (a) Children enrolled in the original children's health plan as of September 30, 1992, children who enrolled in the MinnesotaCare program after September 30, 1992, pursuant to Laws 1992, chapter 549, article 4, section 17, and children who have family gross incomes that are equal to or less than 150 percent of the federal poverty guidelines are eligible without meeting the requirements of subdivision 2 ~~and the four-month requirement in subdivision 3~~, as long as they maintain continuous coverage in the MinnesotaCare program or medical assistance. Children who apply for MinnesotaCare on or after the implementation date of the employer-subsidized health coverage program as described in Laws 1998, chapter 407, article 5, section 45, who have family gross incomes that are equal to or less than 150 percent of the federal poverty guidelines, must meet the requirements of subdivision 2 to be eligible for MinnesotaCare.

Families enrolled in MinnesotaCare under section 256L.04, subdivision 1, whose income increases above ~~275~~ 300 percent of the federal poverty guidelines, are no longer eligible for the program and shall be disenrolled by the commissioner. Beginning January 1, 2008, individuals enrolled in MinnesotaCare under section 256L.04, subdivision 7, whose income increases above 200 percent of the federal poverty guidelines or 215 percent of the federal poverty guidelines on or after July 1, 2009, or 300 percent of federal poverty guidelines on or after July 1, 2010, are no longer eligible for the program and shall be disenrolled by the commissioner. For persons disenrolled under this subdivision, MinnesotaCare coverage terminates the last day of the calendar month following the month in which the commissioner determines that the income of a family or individual exceeds program income limits.

(b) Notwithstanding paragraph (a), children may remain enrolled in MinnesotaCare if ten percent of their gross individual or gross family income as defined in section 256L.01, subdivision 4, is less than the annual premium for a policy with a \$500 deductible available through the Minnesota Comprehensive Health Association. Children who are no longer eligible for MinnesotaCare under this clause shall be given a 12-month notice period from the date that ineligibility is determined before disenrollment. The premium for children remaining eligible under this clause shall be the maximum premium determined under section 256L.15, subdivision 2, paragraph (b).

~~(c) Notwithstanding paragraphs (a) and (b), parents are not eligible for MinnesotaCare if gross household income exceeds \$50,000 for the 12-month period of eligibility.~~

EFFECTIVE DATE. The effective date for the amendment to paragraph (a) related to the four-month requirement is effective January 1, 2009, or upon federal approval, whichever is later. The effective date for the amendment of paragraph (a) related to the expansion in eligibility to 300 percent of federal poverty guidelines, and the amendment to paragraph (c), are effective July 1, 2010.

Sec. 12. Minnesota Statutes 2006, section 256L.07, subdivision 3, is amended to read:

Subd. 3. **Other health coverage.** (a) Families and individuals enrolled in the MinnesotaCare program must have no health coverage while enrolled ~~or for at least four months prior to application and renewal~~. Children enrolled in the original children's health plan and children in families with income equal to or less than 150 percent of the federal poverty guidelines, who have other health insurance, are eligible if the coverage:

(1) lacks two or more of the following:

(i) basic hospital insurance;

(ii) medical-surgical insurance;

(iii) prescription drug coverage;

(iv) dental coverage; or

(v) vision coverage;

(2) requires a deductible of \$100 or more per person per year; or

(3) lacks coverage because the child has exceeded the maximum coverage for a particular diagnosis or the policy excludes a particular diagnosis.

The commissioner may change this eligibility criterion for sliding scale premiums in order to remain within the limits of available appropriations. The requirement of no health coverage does not apply to newborns.

(b) Medical assistance, general assistance medical care, and the Civilian Health and Medical Program of the Uniformed Service, CHAMPUS, or other coverage provided under United States Code, title 10, subtitle A, part II, chapter 55, are not considered insurance or health coverage for purposes of ~~the four-month requirement described in~~ this subdivision.

~~(e)~~ For purposes of this subdivision, an applicant or enrollee who is entitled to Medicare Part A or enrolled in Medicare Part B coverage under title XVIII of the Social Security Act, United States Code, title 42, sections 1395c to 1395w-152, is considered to have health coverage. An applicant or enrollee who is entitled to premium-free Medicare Part A may not refuse to apply for or enroll in Medicare coverage to establish eligibility for MinnesotaCare.

~~(d)~~ (c) Applicants who were recipients of medical assistance or general assistance medical care within one month of application must meet the provisions of this subdivision and subdivision 2.

~~(e) Cost-effective health insurance that was paid for by medical assistance is not considered health coverage for purposes of the four-month requirement under this section, except if the insurance continued after medical assistance no longer considered it cost-effective or after medical assistance closed.~~

EFFECTIVE DATE. This section is effective January 1, 2009, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 13. Minnesota Statutes 2007 Supplement, section 256L.15, subdivision 2, is amended to read:

Subd. 2. **Sliding fee scale; monthly gross individual or family income.** (a) The commissioner shall establish a sliding fee scale to determine the percentage of monthly gross individual or family income that households at different income levels must pay to obtain coverage through the MinnesotaCare program. The sliding fee scale must be based on the enrollee's monthly gross individual or family income. The sliding fee scale must contain separate tables based on enrollment of one, two, or three or more persons. Until June 30, 2009, the sliding fee scale begins with a premium of 1.5 percent of monthly gross individual or family income for individuals or families with incomes below the limits for the medical assistance program for families and children in effect on January 1, 1999, and proceeds through the following evenly spaced steps: 1.8, 2.3, 3.1, 3.8, 4.8, 5.9, 7.4, and 8.8 percent. These percentages are matched to evenly spaced income steps ranging from the medical assistance income limit for families and children in effect on January 1, 1999, to 275 percent of the federal poverty guidelines for the applicable family size, up to a family size of five. The sliding fee scale for a family of five must be used for families of more than five. The sliding fee scale and percentages are not subject to the provisions of chapter 14. If a family or individual reports increased income after enrollment, premiums shall be adjusted at the time the change in income is reported.

(b) ~~Families~~ Children in families whose gross income is above ~~275~~ 300 percent of the federal poverty guidelines shall pay the maximum premium. The maximum premium is defined as a base charge for one, two, or three or more enrollees so that if all MinnesotaCare cases paid the maximum premium, the total revenue would equal the total cost of MinnesotaCare medical coverage and administration. In this calculation, administrative costs shall be assumed to equal ten percent of the total. The costs of medical coverage for pregnant women and children under age two and the enrollees in these groups shall be excluded from the total. The maximum premium for two enrollees shall be twice the maximum premium for one, and the maximum premium for three or more enrollees shall be three times the maximum premium for one.

(c) Beginning July 1, 2009, MinnesotaCare enrollees shall pay premiums according to the affordability scale established in section 62U.08 with the exception that children in families with income at or below 150 percent of the federal poverty guidelines shall pay a monthly premium of \$4. For purposes of this paragraph, and the affordability standard under section 62U.09, "minimum" means a monthly premium of \$4.

EFFECTIVE DATE. This section is effective January 1, 2009, or upon federal approval, whichever is later, except that the amendment to paragraph (b) related to the expansion in eligibility to 300 percent of federal poverty guidelines is effective July 1, 2010, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 14. Laws 2007, chapter 147, article 5, section 19, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective July 1, 2007, or upon federal approval, whichever is later 2008.

Sec. 15. **REPEALER.**

Minnesota Statutes 2006, section 256L.15, subdivision 3, is repealed.

EFFECTIVE DATE. This section is effective January 1, 2009, or upon federal approval of the amendments to Minnesota Statutes, section 256L.15, subdivision 2, paragraph (c), whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

ARTICLE 4

HEALTH INSURANCE PURCHASING AND AFFORDABILITY REFORM

Section 1. Minnesota Statutes 2007 Supplement, section 62J.495, is amended by adding a subdivision to read:

Subd. 3. **Interoperable electronic health record requirements.** To meet the requirements of subdivision 1, hospitals and health care providers must meet the following criteria when implementing an interoperable electronic health records system within their hospital system or clinical practice setting.

(a) The electronic health record must be certified by the Certification Commission for Healthcare Information Technology, or its successor. This criterion only applies to hospitals and health care providers whose practice setting is a practice setting covered by Certification Commission for Healthcare Information Technology certifications. This criterion shall be considered met if a hospital or health care provider is using an electronic health records system that has been certified within the last three years, even if a more current version of the system has been certified within the three-year period.

(b) A health care provider who is a prescriber or dispenser of controlled substances must have an electronic health record system that meets the requirements of section 62J.497.

Sec. 2. **[62J.497] ELECTRONIC PRESCRIPTION DRUG PROGRAM.**

Subdivision 1. **Definitions.** For the purposes of this section, the following terms have the meanings given.

(a) "Dispense" or "dispensing" has the meaning given in section 151.01, subdivision 30. Dispensing does not include the direct administering of a controlled substance to a patient by a licensed health care professional.

(b) "Dispenser" means a person authorized by law to dispense a controlled substance, pursuant to a valid prescription.

(c) "Electronic media" has the same meaning given this term under Code of Federal Regulations, title 45, part 160.103.

(d) "E-prescribing" means the transmission using electronic media, of prescription or prescription-related information between a prescriber, dispenser, pharmacy benefit manager, or group purchaser, either directly or through an intermediary, including an e-prescribing network. E-prescribing includes, but is not limited to, two-way transmissions between the point of care and the dispenser.

(e) "Electronic prescription drug program" means a program that provides for e-prescribing.

(f) "Group purchaser" has the meaning given in section 62J.03, subdivision 6.

(g) "HL7 messages" means a standard approved by the standards development organization known as Health Level Seven.

(h) "National Provider Identifier" or "NPI" means the identifier described under Code of Federal Regulations, title 45, part 162.406.

(i) "NCPDP" means the National Council for Prescription Drug Programs, Inc.

(j) "NCPDP Formulary and Benefits Standard" means the National Council for Prescription Drug Programs Formulary and Benefits Standard, Implementation Guide, Version 1, Release 0, October 2005.

(k) "NCPDP SCRIPT Standard" means the National Council for Prescription Drug Programs Prescriber/Pharmacist Interface SCRIPT Standard, Implementation Guide Version 8, Release 1 (Version 8.1), October 2005.

(l) "Pharmacy" has the meaning given in section 151.01, subdivision 2.

(m) "Prescriber" means a licensed health care professional who is authorized to prescribe a controlled substance under section 152.12, subdivision 1.

(n) "Prescription-related information" means information regarding eligibility for drug benefits, medication history, or related health or drug information.

(o) "Provider" or "health care provider" has the meaning given in section 62J.03, subdivision 8.

Subd. 2. **Requirements for electronic prescribing.** (a) Effective January 1, 2011, all providers, group purchasers, prescribers, and dispensers must establish and maintain an electronic prescription drug program that complies with the applicable standards in this section for transmitting, directly or through an intermediary, prescriptions and prescription-related information using electronic media.

(b) Nothing in this section requires providers, group purchasers, prescribers, or dispensers to conduct the transactions described in this section. 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) Entities transmitting prescriptions or prescription-related information where the prescriber is required by law to issue a prescription for a patient to a nonprescribing provider that in turn forwards the prescription to a dispenser are exempt from the requirement to use the NCPDP SCRIPT Standard when transmitting prescriptions or prescription-related information.

Subd. 3. **Standards for electronic prescribing.** (a) Prescribers and dispensers must use the NCPDP SCRIPT Standard for the communication of a prescription or prescription-related information. The NCPDP SCRIPT Standard shall be used to conduct the following transactions:

- (1) get message transaction;
- (2) status response transaction;
- (3) error response transaction;
- (4) new prescription transaction;
- (5) prescription change request transaction;
- (6) prescription change response transaction;
- (7) refill prescription request transaction;
- (8) refill prescription response transaction;
- (9) verification transaction;
- (10) password change transaction;
- (11) cancel prescription request transaction; and
- (12) cancel prescription response transaction.

(b) Providers, group purchasers, prescribers, and dispensers must use the NCPDP SCRIPT Standard for communicating and transmitting medication history information.

(c) Providers, group purchasers, prescribers, and dispensers must use the NCPDP Formulary and Benefits Standard for communicating and transmitting formulary and benefit information.

(d) Providers, group purchasers, prescribers, and dispensers must use the national provider identifier to identify a health care provider in e-prescribing or prescription related transactions when a health care provider's identifier is required.

(e) Providers, group purchasers, prescribers, and dispensers must communicate eligibility information and conduct health care eligibility benefit inquiry and response transactions according to the requirements of section 62J.536.

Sec. 3. **[62U.01] DEFINITIONS.**

Subdivision 1. **Applicability.** For purposes of this chapter, the terms defined in this section have the meanings given, unless otherwise specified.

Subd. 2. **Basket or baskets of care.** "Basket" or "baskets of care" means a collection of health care services that are paid separately under a fee-for-service system, but which are ordinarily combined by a provider in delivering a full diagnostic or treatment procedure to a patient.

Subd. 3. **Clinically effective.** "Clinically effective" means that the use of a particular health technology or service improves or prevents a decline in patient clinical status, as measured by medical condition, survival rates, and other variables, and that the use of the particular technology or service demonstrates a clinical or outcome advantage over alternative technologies or services. This definition shall not be used to exclude or deny technology or treatment necessary to preserve life on the basis of an individual's age or expected length of life or of the individual's present or predicted disability, degree of medical dependency, or quality of life.

Subd. 4. **Cost-effective.** "Cost-effective" means that the economic costs of using a particular service, device, or health technology to achieve improvement or prevent a decline in a patient's health outcome are justified given the comparison to both the economic costs and the improvement or prevention of decline in patient health outcome resulting from the use of an alternative service, device, or technology, or from not providing the service, device, or technology.

Subd. 5. **Group purchaser.** "Group purchaser" has the meaning provided in section 62J.03.

Subd. 6. **Health plan.** "Health plan" means a health plan as defined in section 62A.011.

Subd. 7. **Health plan company.** "Health plan company" has the meaning provided in section 62Q.01, subdivision 4.

Subd. 8. **Participating provider.** "Participating provider" means a provider who has entered into a service agreement with a health plan company.

Subd. 9. **Provider or health care provider.** "Provider" or "health care provider" means a health care provider as defined in section 62J.03, subdivision 8.

Subd. 10. **Service agreement.** "Service agreement" means an agreement, contract, or other arrangement between a health plan company and a provider under which the provider agrees that when health services are provided for an enrollee, the provider shall not make a direct charge against the enrollee for those services or parts of services that are covered by the enrollee's contract, but shall look to the service plan corporation for the payment for covered services, to the extent they are covered.

Subd. 11. **State health care program.** "State health care program" means the medical assistance, MinnesotaCare, and general assistance medical care programs.

Subd. 12. **Third-party administrator.** "Third-party administrator" means a vendor of risk-management services or an entity administering a self-insurance or health insurance plan under section 60A.23.

Sec. 4. **[62U.02] VALUE-BASED BENEFIT SET AND DESIGN.**

Subdivision 1. **Creation.** By October 15, 2009, the commissioner of health shall make recommendations to the legislature on the components and design of a value-based set of health benefits. The commissioner shall convene an advisory committee to assist in preparing recommendations. Prior to recommending the value-based benefit set and design, the commissioner and advisory committee shall convene public hearings throughout the state.

Subd. 2. **Operations of advisory committee.** The advisory committee shall consist of no more than 11 members. The members shall be appointed by the commissioner and must have expertise in benefit design and development in terms of outcomes, actuarial health care analysis, or knowledge relating to the analysis of the cost impact of coverage of specified benefits. The commissioner shall convene the first meeting on or before September 1, 2008, upon the appointment of the initial committee and must meet at least once a year, and at other times as necessary. The commissioner shall provide office space, equipment and supplies, and technical support to the advisory committee. In establishing the benefit set, the committee shall consult with organizations with expertise in formulating scientifically based practice standards. The advisory committee shall be governed by section 15.059, except the committee shall not expire.

Subd. 3. **Immunity of liability.** No member of the advisory committee shall be held civilly liable for an act or omission by that member if the act or omission was in good faith and within the scope of the member's responsibilities under this chapter.

Subd. 4. **Benefit set design.** (a) The value-based set of health benefits must provide individuals and families with access to a broad range of health care services, including preventive health care, without incurring severe financial loss as a result of serious illness or injury. The benefit set must include health care services, procedures, and diagnostic tests that are scientifically proven to be both clinically effective and cost effective. The benefit set may require differentiated co-pays and deductibles based upon the clinical effectiveness and cost effectiveness of a particular health care service. The advisory committee must consider including cost effective and clinically effective dental care, mental health services, chemical dependency treatment, vision care, language interpreter services, emergency transportation, and prescription drugs. The committee shall consider cultural, ethnic, and religious values and beliefs to ensure that the health care needs of all Minnesota residents are addressed in the benefit set.

(b) The benefit set must identify and include the following services with minimal or no cost-sharing requirements, if the committee determines that the savings and health quality improvements associated with broad access are equal to or greater than the cost of providing the services: preventive services, chronic care coordination, early diagnostic tests, and outpatient care for asthma, heart disease, diabetes, and depression.

(c) The benefit set shall, to the extent possible, be designed to be affordable to Minnesotans consistent with the affordability standard established in section 62U.09.

(d) The benefit design must establish a limited number of maximum cost-sharing variations based upon deductibles and maximum out-of-pocket costs. There must be no maximum lifetime benefit.

(e) The commissioners of human services and finance shall, to the extent possible, consider incorporating the benefit design into the state public health care programs and the state employee group insurance program.

(f) The commissioners of health and commerce shall report to the legislature on necessary changes needed to current mandated benefit sets to incorporate the benefit design developed under this section.

Subd. 5. **Continued review.** The commissioner and the committee shall review the benefit set and design on an ongoing periodic basis and shall adjust the benefit set and design as necessary, to ensure that the benefit set and design continues to be safe, effective, and scientifically based.

Sec. 5. [62U.03] HEALTH TECHNOLOGY ASSESSMENT REVIEW.

The commissioner of health, in consultation with the Health Advisory Council, the Institute for Clinical Systems, and practicing health care providers who either use health technology in their scope of practice or have an expertise in health technology, shall review the health technology assessments of new and existing health technologies that have been conducted by existing programs, including but not limited to, the state of Washington's health technology assessment program and the Medicaid Evidence-Based Decisions Project for inclusion to the value-based benefit set and design under section 62U.02.

Sec. 6. [62U.04] PAYMENT RESTRUCTURING; INCENTIVE PAYMENTS BASED ON QUALITY OF CARE.

Subdivision 1. **Development.** (a) The commissioner of health shall develop a standardized set of measures by which to assess the quality of health care services offered by health care providers, including health care providers certified as health care homes under section 256B.0751. Quality measures must be based on medical evidence and be developed through a process in which providers participate. The measures shall be used for the quality incentive payment system developed in subdivision 2 and must:

(1) include uniform definitions, measures, and forms for submission of data, to the greatest extent possible;

(2) seek to avoid increasing the administrative burden on health care providers;

(3) be initially based on existing quality indicators for physician and hospital services, which are measured and reported publicly by quality measurement organizations including Minnesota Community Measurement and specialty societies;

(4) place a priority on measures of health care outcomes, rather than process measures, wherever possible; and

(5) incorporate measures for primary care, including preventive services, coronary artery and heart disease, diabetes, asthma, depression, and other measures as determined by the commissioner.

(b) The measures shall be reviewed at least annually by the commissioner.

Subd. 2. **Quality incentive payments.** (a) By July 1, 2009, the commissioner shall develop a system of quality incentive payments under which providers are eligible for quality-based payments that are in addition to existing payment levels, based upon a comparison of provider performance against specified targets, including improvement over time. The targets must be based upon and consistent with the quality measures established under subdivision 1.

(b) To the extent possible, the payment system must adjust for variations in patient population, in order to reduce incentives to health care providers to avoid high-risk patients or populations.

(c) The requirements of section 62Q.101 do not apply under this incentive payment system.

Subd. 3. **Quality transparency.** The commissioner shall establish standards for measuring health outcomes, establish a system for risk adjusting quality measures, and issue annual public reports on provider quality beginning July 1, 2010. By January 1, 2010, physician clinics and hospitals shall submit standardized electronic information on the outcomes and processes associated with patient care to the commissioner or the commissioner's designee. In addition to measures of care processes and outcomes, the report may include other measures designated by the commissioner, including, but not limited to, care infrastructure and patient satisfaction. The commissioner shall ensure that any quality data reporting requirements established under this subdivision are not duplicative of publicly reported, community-wide quality reporting activities currently under way in Minnesota. Nothing in this subdivision is intended to replace or duplicate current privately supported activities related to quality measurement and reporting in Minnesota.

Subd. 4. **Contracting.** The commissioner may contract with a private entity or consortium of private entities to complete the tasks in subdivisions 1, 2, and 3. The private entity or consortium must be nonprofit and have governance that includes representatives from the following stakeholder groups: health care providers, health plan companies, consumers, employers or other health care purchasers, and state government. No one stakeholder group shall have a majority of the votes on any issue or hold extraordinary powers not granted to any other governance stakeholder.

Subd. 5. **Implementation.** (a) By January 1, 2010, health plan companies shall use the standardized quality measures established under this section and shall not require providers to use and report health plan company-specific quality and outcome measures.

(b) By July 1, 2010, the commissioner of human services shall implement this incentive payment system for all enrollees in state health care programs consistent with relevant state and federal statute and rule.

(c) By July 1, 2010, the commissioner of finance shall implement this incentive payment system for all participants in the state employee group insurance program.

(d) By July 1, 2010, all health plan company incentive based performance payment systems shall comply with subdivision 2 for all participating providers.

Sec. 7. [62U.05] PAYMENT RESTRUCTURING; CARE COORDINATION PAYMENTS.

By July 1, 2010, health plan companies shall integrate health care homes into their provider networks and shall develop a payment system that provides per-person care coordination payments to health care providers for providing care coordination services and directly managing onsite or employing care coordinators for their members who choose to enroll in health care homes certified by the commissioners of health and human services under section 256B.0751. Health plan companies shall develop payment conditions and terms for the care coordination fee for health care homes participating in their network in a manner that is consistent with the system developed under section 256B.0751. Nothing in this section shall restrict the ability of health plan companies to selectively contract with health care providers, including health care homes.

Sec. 8. [62U.06] PAYMENT REFORM TO REDUCE HEALTH CARE COSTS AND IMPROVE QUALITY.

Subdivision 1. **Development of uniform standards.** The commissioner of health shall develop the uniform standards identified in this section needed to implement on a broad scale innovative payment reform that rewards quality and efficiency. The development of the standards must be completed by January 1, 2010.

Subd. 2. **Calculation of health care costs and quality.** The commissioner shall develop a method of calculating providers' relative cost of care, defined as a measure of health care spending including resource use and unit prices, and relative quality of care. In developing this method, the commissioner must address the following issues:

- (1) provider attribution of costs and quality;
- (2) appropriate adjustment for outlier or catastrophic cases;
- (3) appropriate risk adjustment to reflect differences in the demographics and health status across provider patient populations, using generally accepted and transparent risk adjustment methodologies;
- (4) specific types of providers that should be included in the calculation;
- (5) specific types of services that should be included in the calculation;
- (6) appropriate adjustment for variation in payment rates;
- (7) the appropriate provider level for analysis;
- (8) payer mix adjustments, including variation across providers in the percentage of revenue received from government programs; and
- (9) other factors that the commissioner determines are needed to ensure validity and comparability of the analysis.

Subd. 3. **Provider peer grouping.** (a) The commissioner shall develop a peer grouping system for providers based on a measure that incorporates both provider risk-adjusted cost of care and quality of care for specific conditions as determined by the commissioner. In developing this system, the commissioner shall consult and coordinate with health care providers, health plan companies, state agencies, and organizations that work to improve health care quality in Minnesota. However, in the final development of this peer grouping system, the commissioner shall not contract with any private entity, organization, or consortium of entities that has or will have a direct financial interest in the outcome of this system.

(b) Beginning June 1, 2010, the commissioner shall disseminate information to providers on their cost of care, resource use, quality of care, and the results of the grouping developed under this subdivision in comparison to an appropriate peer group. Any analyses or reports that identify providers may only be published after the provider has been provided the opportunity by the commissioner to review the underlying data and submit comments. The provider shall have 21 days to review the data for accuracy.

(c) The commissioner shall establish an appeals process to resolve disputes from providers regarding the accuracy of the data used to develop analyses or reports.

(d) Beginning September 1, 2010, the commissioner shall, no less than annually, publish information on providers' cost, quality, and the results of the peer grouping process. The results that are published must be on a risk-adjusted basis.

Subd. 4. **Encounter data.** (a) Beginning July 1, 2009, and every six months thereafter, all health plan companies and third-party administrators shall submit encounter data to a private entity designated by the commissioner of health. The data shall be submitted in a form and manner specified by the commissioner subject to the following requirements:

(1) the data must be de-identified data as described under the Code of Federal Regulations, title 45, section 164.514;

(2) the data for each encounter must include an identifier for the patient's health care home if the patient has selected a health care home; and

(3) except for the identifier described in clause (2), the data must not include information that is not included in a health care claim or equivalent encounter information transaction that is required under section 62J.536.

(b) The commissioner, or the commissioner's designee, shall only use the data submitted under paragraph (a) for the purpose of carrying out its responsibilities in this section, and must maintain the data that it receives according to the provisions of this section.

(c) Data on providers collected under this subdivision are private data on individuals or nonpublic data, as defined in section 13.02. Notwithstanding the definition of summary data in section 13.02, subdivision 19, summary data prepared under this subdivision may be derived from nonpublic data. The commissioner shall establish procedures and safeguards to protect the integrity and confidentiality of any data that it maintains.

(d) The commissioner, or the commissioner's designee, shall not publish analyses or reports that identify, or could potentially identify, individual patients.

Subd. 5. **Pricing data.** (a) Beginning July 1, 2009, and annually on January 1 thereafter, all health plan companies and third-party administrators shall submit data on their contracted prices with health care providers to a private entity designated by the commissioner of health for the purposes of performing the analyses required under this subdivision. The data shall be submitted in the form and manner specified by the commissioner of health.

(b) The commissioner shall only use the data submitted under this subdivision for the purpose of carrying out its responsibilities under this section.

(c) Data collected under this subdivision are nonpublic data as defined in section 13.02. Notwithstanding the definition of summary data in section 13.02, subdivision 19, summary data prepared under this section may be derived from nonpublic data. The commissioner shall establish procedures and safeguards to protect the integrity and confidentiality of any data that it maintains.

Subd. 6. **Contracting.** The commissioner may contract with a private entity or consortium of entities to develop the standards. The private entity or consortium must be nonprofit and have governance that includes representatives from the following stakeholder groups: health care providers, health plans, hospitals, consumers, employers or other health care purchasers, and state government. The entity or consortium must ensure that the representatives of stakeholder groups in the aggregate reflect all geographic areas of the state. No one stakeholder group shall have a majority of the votes on any issue or hold extraordinary powers not granted to any other governance stakeholder.

Subd. 7. **Provider innovation to reduce health care costs and improve quality.** (a) Nothing in this section shall prohibit group purchasers and health care providers, upon mutual agreement, from entering into arrangements that establish package prices for a comprehensive set of services or separately for the cost of care for specific health conditions in addition to the baskets of care established in section 62U.07, in order to give providers the flexibility to innovate on ways to reduce health care costs while improving overall quality of care and health outcomes.

(b) The commissioner of health may convene working groups of private sector payers and health care providers to discuss and develop new strategies for reforming health care payment systems to promote innovative care delivery that reduces health care costs and improves quality.

Subd. 8. Uses of information. (a) By January 1, 2011:

(1) the commissioner of finance shall use the information and methods developed under subdivision 3 to strengthen incentives for members of the state employee group insurance program to use high-quality, low-cost providers;

(2) the commissioner of human services shall use the information and methods developed under subdivision 3 to establish a payment system that:

(i) rewards high-quality, low-cost providers;

(ii) creates enrollee incentives to receive care from high-quality, low-cost providers; and

(iii) fosters collaboration among providers to reduce cost shifting from one part of the health continuum to another;

(3) all political subdivisions, as defined in section 13.02, subdivision 11, that offer health benefits to their employees must offer plans that differentiate providers on their cost and quality performance and create incentives for members to use better-performing providers;

(4) all health plan companies shall use the information and methods developed under subdivision 3 to develop products that encourage consumers to use high-quality, low-cost providers; and

(5) health plan companies that issue health plans in the individual market or the small employer market must offer at least one health plan that uses the information developed under subdivision 3 to establish financial incentives for consumers to choose high-quality, low-cost providers through enrollee cost-sharing or selective provider networks.

(b) By January 1, 2011, the commissioner of health shall report to the governor and the legislature on recommendations to encourage health plan companies to promote widespread adoption of products that encourage the use of high-quality, low-cost providers. The commissioner's recommendations may include tax incentives, public reporting of health plan performance, regulatory incentives or changes, and other strategies.

(c) The commissioner of health shall consult with an advisory group comprised of employers and consumers to utilize the cost and provider quality information developed under subdivision 3 to identify ways to improve overall health care costs and quality for residents of Minnesota.

Sec. 9. [62U.07] PROVIDER PRICING FOR BASKETS OF CARE.

Subdivision 1. **Establishment of definitions.** (a) The commissioner of health shall establish uniform definitions for baskets of care beginning with a minimum of 15 baskets of care. In selecting health conditions for which baskets of care should be defined, the commissioner shall consider coronary artery and heart disease, diabetes, asthma, and depression. In selecting health conditions, the commissioner shall also consider the prevalence of the health conditions, the cost of treating the health conditions, and the potential for innovations to reduce cost and improve quality resulting from establishing a basket of care for a specific health condition.

(b) The commissioner shall convene one or more work groups to assist in establishing these definitions. Each work group shall include members appointed by statewide associations representing relevant health care providers and health plan companies, and organizations that work to improve health care quality in Minnesota.

(c) The baskets of care shall incorporate a patient-directed, decision-making support model.

(d) The commissioner shall submit recommendations to the Legislative Commission on Health Care Access on establishing a uniform definition of a basket of total cost of care.

Subd. 2. **Package prices.** (a) Beginning January 1, 2010, health care providers may establish package prices for the baskets of care defined under subdivision 1.

(b) Beginning January 1, 2010, no health care provider or group of providers that has established a package price for a basket of care under this section shall vary the payment amount that the provider accepts as full payment for a health care service based upon the identity of the payer, upon a contractual relationship with a payer, upon the identity of the patient, or upon whether the patient has coverage through a group purchaser. This paragraph applies only to health care services provided to Minnesota residents or to non-Minnesota residents who obtain health insurance through a Minnesota employer. This paragraph does not apply to a variation based upon a payer being a governmental entity, to workers' compensation, or no-fault automobile insurance payments. This paragraph does not affect the right of a provider to provide charity care or care for a reduced price due to financial hardship of the patient or due to the patient being a relative or friend of the provider.

Subd. 3. **Quality measurements for baskets of care.** (a) The commissioner shall establish quality measurements for the defined baskets of care by December 31, 2009. The commissioner may contract with an organization that works to improve health care quality to make recommendations about the use of existing measures or establishing new measures where no measures currently exist.

(b) Beginning July 1, 2010, the commissioner shall publish comparative price and quality information on the baskets of care in a manner that is easily accessible and understandable to the public, as this information becomes available.

Sec. 10. [62U.08] COORDINATION; LEGISLATIVE OVERSIGHT ON PAYMENT RESTRUCTURING.

Subdivision 1. **Coordination.** In carrying out the responsibilities of this chapter, the commissioner of health shall ensure that the activities and data collection are implemented in an integrated and coordinated manner that avoids unnecessary duplication of effort. To the extent possible, the commissioner shall use existing data sources and implement methods to streamline data collection in order to reduce public and private sector administrative costs.

Subd. 2. **Legislative oversight.** Beginning December 1, 2008, the commissioner of health shall submit to the Legislative Commission on Health Care Access periodic progress reports on the implementation of this chapter and sections 256B.0751 to 256B.0753 that includes, but is not limited to, the following:

(1) the standardized set of measures that are to be used to access the quality of health care services offered by health care providers developed under section 62U.04;

(2) the identification of the evidence supporting each measure developed under section 62U.04 as an effective method of improving the quality of patient care;

(3) the contract terms and the identity of the consortium if the commissioner contracts with a private entity or consortium of private entities as permitted under sections 62U.04 and 62U.06;

(4) methodology for peer grouping of providers under section 62U.06, subdivision 3;

(5) methodology for calculating providers' relative cost of care under section 62U.06, subdivision 2; and

(6) the uniform definitions of baskets of care under section 62U.07.

Sec. 11. **[62U.09] AFFORDABILITY STANDARD.**

Subdivision 1. **Definition of affordability.** For purposes of this section, coverage is "affordable" if the sum of premiums, deductibles, and other out-of-pocket costs paid by an individual or family for health coverage does not exceed the applicable percentage of the individual or family's gross monthly income specified in subdivision 2.

Subd. 2. **Affordability standard.** The following affordability standard is established for individuals and households with gross family incomes of 400 percent of the federal poverty guidelines or less:

<u>Federal Poverty Guideline Range</u>	<u>Percent of Average Gross Monthly Income</u>
<u>0-45%</u>	<u>minimum</u>
<u>46-54%</u>	<u>1.1%</u>
<u>55-81%</u>	<u>1.4%</u>
<u>82-109%</u>	<u>1.9%</u>
<u>110-136%</u>	<u>2.6%</u>
<u>137-164%</u>	<u>3.4%</u>
<u>165-191%</u>	<u>4.4%</u>
<u>192-219%</u>	<u>5.2%</u>
<u>220-248%</u>	<u>5.9%</u>
<u>249-274%</u>	<u>6.5%</u>
<u>275-300%</u>	<u>7.0%</u>
<u>301-325%</u>	<u>7.7%</u>
<u>326-350%</u>	<u>8.4%</u>
<u>351-375%</u>	<u>9.2%</u>
<u>376-400%</u>	<u>10.0%</u>

Subd. 3. **Application.** The affordability standard in this section shall apply only to subsidies under the MinnesotaCare program and the employee subsidy program established under section 62U.10. Nothing in this section shall be construed to limit or restrict the percentage of premiums, deductibles, and other out-of-pocket costs paid by an individual or family in the private commercial health care coverage market.

Sec. 12. **[62U.10] EMPLOYEE SUBSIDIES FOR HEALTH COVERAGE.**

Subdivision 1. **Development of subsidy program.** The commissioner of health, in coordination with the commissioner of human services, shall develop a plan and submit recommendations to the legislature by January 15, 2010, for a subsidy program for eligible individuals and employees with access to employer-subsidized health coverage. The plan may include direct subsidies or tax credits and deductions, including refundable tax credits, or a combination. For purposes of this section, employer-subsidized health coverage has the meaning provided in section 256L.07, subdivision 2, paragraph (c).

Subd. 2. **Eligible employees and dependents; incomes not exceeding 300 percent of federal poverty guidelines.** In order to be eligible for a subsidy under this plan, an employee or dependent with a gross household income that does not exceed 300 percent of the federal poverty guidelines must:

(1) be covered by employer-subsidized health coverage, as defined in section 256L.07, subdivision 2, paragraph (c), that meets the value-based benefit set and design requirements established under section 62U.02; and

(2) meet all eligibility criteria for the MinnesotaCare program established under chapter 256L, except for the requirements related to:

(i) no access to employer-subsidized coverage under section 256L.07, subdivision 2; and

(ii) no other health coverage under section 256L.07, subdivision 3.

Subd. 3. Eligible individuals, employees and dependents; incomes greater than 300 percent but not exceeding 400 percent of federal poverty guidelines. In order to be eligible for a subsidy under this plan, an individual, employee, or dependent with a gross household income that is greater than 300 percent but does not exceed 400 percent of the federal poverty guidelines must:

(1) purchase or be covered by health coverage that meets the value-based benefit set and design requirements established under section 62U.02; and

(2) meet all eligibility criteria for the MinnesotaCare program established under chapter 256L, except for the requirements related to:

(i) no access to employer-subsidized coverage under section 256L.07, subdivision 2;

(ii) no other health coverage under section 256L.07, subdivision 3; and

(iii) gross household income under section 256L.04, subdivisions 1 and 7.

Subd. 4. Amount of subsidy. The subsidy included in this plan must equal the amount the individual or employee is required to pay for health coverage for the employee and any dependents, including premiums, deductibles, and other cost sharing, minus an amount based on the affordability standard specified in section 62U.09. The maximum subsidy must not exceed the amount of the subsidy that would have been provided under the MinnesotaCare program, if the individual or employee and any dependents were eligible for that program.

Subd. 5. Payment of subsidy. The subsidy amount under this plan for an individual or employee and any dependents to the individual's or employee's health plan company, shall be credited toward the individual's or employee's share of premium. Any additional amount paid to the individual's or employee's health plan company that exceeds the individual's or employee's share of premium must be credited first toward the individual's or employee's deductible and then toward any other cost-sharing obligation.

Sec. 13. [62U.11] PROJECTED AND ACTUAL HEALTH CARE SPENDING.

Subdivision 1. Projected spending baseline. (a) The commissioner of health shall calculate the annual projected total health care spending for the state and establish a health care spending baseline beginning for the calendar year 2008 and for the next ten years based on the annual projected growth in spending.

(b) In establishing the health care spending baseline, the commissioner shall use the Center for Medicare and Medicaid Services forecast for total growth in national health care expenditures, and adjust this forecast to reflect the demographics, health status, and other factors deemed necessary by the commissioner. The commissioner shall contract with an actuarial consultant to make recommendations as to the adjustments needed to specifically reflect projected spending for Minnesota residents.

(c) On an annual basis, the commissioner may adjust the projected baseline as necessary to reflect any updated federal projections or account for unanticipated changes in federal policy.

(d) Medicare and long-term care spending must not be included in the calculations required under this section.

Subd. 2. **Actual spending.** By February 15 of each year, beginning February 15, 2010, the commissioner shall determine the actual private and public health care expenditures for the calendar year two years prior to the current calendar year based on data collected under chapter 62J and shall determine the difference between the projected spending as determined under subdivision 1 and the actual spending for that year. The actual spending must be certified by an independent actuarial consultant.

Subd. 3. **Publication of spending.** By February 15 of each year, beginning February 15, 2010, the commissioner shall publish in the State Register the projected spending baseline, including any adjustments, and the actual spending for the calendar year two years prior to the current calendar year.

Sec. 14. **[62U.12] HEALTH CARE REFORM REVIEW COUNCIL.**

Subdivision 1. **Establishment.** The Health Care Reform Review Council is established for the purpose of periodically reviewing the progress of implementation of this chapter and sections 256B.0751 to 256B.0753.

Subd. 2. **Members.** (a) The Health Care Reform Review Council shall consist of ten members who are appointed as follows:

(1) two members appointed by the Minnesota Medical Association, at least one of whom must represent rural physicians;

(2) one member appointed by the Minnesota Nurses Association;

(3) two members appointed by the Minnesota Hospital Association, at least one of whom must be a rural hospital administrator;

(4) one member appointed by the Minnesota Academy of Physician Assistants;

(5) one member appointed by the Minnesota Business Partnership;

(6) one member appointed by the Minnesota Chamber of Commerce;

(7) one member appointed by the SEIU Minnesota State Council; and

(8) one member appointed by the AFL-CIO.

(b) If a member is no longer able or eligible to participate, a new member shall be appointed by the entity that appointed the outgoing member.

Subd. 3. **Operations of council.** (a) The commissioner of health shall convene the first meeting of the council on or before January 15, 2009, following the initial appointment of the members and the advisory council must meet at least quarterly thereafter.

(b) The council is governed by section 15.059, except that members shall not receive per diems and the council does not expire.

(c) The commissioner of health shall provide staff, administrative support, and office space to the council.

Subd. 4. **Responsibilities of council.** The council shall periodically review the implementation of this chapter and sections 256B.0571 to 256B.0573, including but not limited to:

(1) the development and implementation of certification, process, outcome, and quality standards for health care homes;

(2) development and implementation of payment restructuring and payment reform under sections 62U.04, 62U.05, 62U.06, and 62U.07; and

(3) development of the plan and recommendations for providing subsidies to employees for health coverage under section 62U.10.

Sec. 15. **[62U.13] SECTION 125 PLANS.**

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given them.

(a) "Employee" means an employee currently on an employer's payroll other than a retiree or disabled former employee.

(b) "Employer" means a person, firm, corporation, partnership, association, business trust, or other entity employing one or more persons, including a political subdivision of the state, filing payroll tax information on the employed person or persons.

(c) "Section 125 Plan" means a cafeteria or premium-only plan under section 125 of the Internal Revenue Code that allows employees to pay for health coverage premiums with pretax dollars.

Subd. 2. **Section 125 Plan requirement.** (a) Effective July 1, 2009, all employers with 11 or more current full-time equivalent employees in this state shall establish and maintain a Section 125 Plan to allow their employees to purchase individual market or employer-based health coverage with pretax dollars. Nothing in this section requires employers to offer or purchase group health coverage for their employees. The following employers are exempt from the Section 125 Plan requirement:

(1) employers that offer a health plan as defined in section 62A.011, subdivision 3, that is group coverage;

(2) employers that provide self-insurance as defined in section 62E.02; or

(3) employers that have no employees who are eligible to participate in a Section 125 Plan.

(b) Notwithstanding paragraph (a), an employer that has been certified by a licensed insurance producer as having received education and information on the benefits and advantages of offering Section 125 Plans is not required to establish a Section 125 Plan and may opt out of the requirement to establish a Section 125 Plan by sending a form to the commissioner of commerce. The commissioner of commerce shall create a simple check-box form for employers to opt out. The commissioner of commerce shall make the form available through their Web site by April 1, 2009.

Subd. 3. **Employer requirements.** (a) Employers that do not offer a health plan as defined in section 62A.011, subdivision 3, that is group coverage and are required to offer or choose to offer a Section 125 Plan shall:

(1) allow employees to purchase an individual market health plan for themselves and their dependents;

(2) allow employees to choose any insurance producer licensed in accident and health insurance under chapter 60K to assist them in purchasing an individual market health plan;

(3) upon an employee's request, deduct premium amounts on a pretax basis in an amount not to exceed an employee's wages, and remit these employee payments to the health plan; and

(4) provide written notice to employees that individual market health plans purchased by employees through payroll deduction are not employer-sponsored or administered.

(b) Employers shall be held harmless from any and all claims related to the individual market health plans purchased by employees under a Section 125 Plan.

Sec. 16. **[256B.0751] PAYMENT REFORM.**

Subdivision 1. **Quality incentive payments.** The commissioner of human services shall implement quality incentive payments as required under section 62U.04. This does not limit the ability of the commissioner of human services to establish by contract and monitor, as part of its quality assurance obligations for state health care programs, outcome and performance measures for nonmedical services and health issues likely to occur in low-income populations or racial or cultural groups disproportionately represented in state health care program enrollment, that would likely be underrepresented when using traditional measures that are based on longer-term enrollment.

Subd. 2. **Payment reform.** The commissioner of human services shall establish a payment system to reduce health care costs and improve quality as required under section 62U.06.

Sec. 17. **HIGH-DEDUCTIBLE HEALTH PLAN OPTION.**

The commissioner of finance shall consider including an option that is compatible with the definition of a high-deductible health plan in section 223 of the Internal Revenue Code in the health insurance benefit plans offered under the managerial plan in Minnesota Statutes, section 43A.18, subdivision 3.

Sec. 18. **STUDY OF UNIFORM CLAIMS REVIEW PROCESS.**

The commissioner of health shall establish a work group including representatives of the Minnesota Hospital Association, Minnesota Medical Association, and Minnesota Council of Health Plans to make recommendations on the potential for reducing claims adjudication costs of health care providers and health plan companies by adopting more uniform payment methods, and the potential impact of establishing uniform prices that would replace current prices negotiated individually by providers with separate payers. The work group shall make its recommendations to the commissioner by January 1, 2010, and shall identify specific action steps needed to achieve the recommendations.

ARTICLE 5

APPROPRIATIONS

Section 1. **SUMMARY OF APPROPRIATIONS.**

The amounts shown in this section summarize direct appropriations, by fund, made in this article.

	<u>2009</u>	<u>Total</u>
<u>General Fund</u>	<u>\$403,000</u>	<u>\$403,000</u>
<u>Health Care Access Fund</u>	<u>12,883,000</u>	<u>12,883,000</u>
<u>Total</u>	<u>\$13,286,000</u>	<u>\$13,286,000</u>

Sec. 2. **HEALTH AND HUMAN SERVICES APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are added to or, if shown in parentheses, subtracted from the appropriations in Laws 2007, chapter 147, article 19, or other law to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal year indicated for each purpose. The figure "2009" used in this article means that the addition to or subtraction from the appropriation listed under it is available for the fiscal year ending June 30, 2009.

APPROPRIATIONS
Available for the Year
Ending June 30
2009

Sec. 3. **HUMAN SERVICES**

Subdivision 1. **Total Appropriation** **\$6,175,000**

Appropriations by Fund

	<u>2009</u>
<u>General</u>	<u>1,227,000</u>
<u>Health Care Access</u>	<u>4,948,000</u>

The amounts that may be spent for each purpose are specified in the following subdivisions.

Subd. 2. **Children and Economic Assistance Management**

<u>Health Care Access</u>	<u>6,000</u>
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This is a onetime appropriation.

Subd. 3. **Basic Health Care Grants**

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

(a) **MinnesotaCare Grants**

<u>Health Care Access</u>	<u>1,301,000</u>
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APPROPRIATIONS
Available for the Year
Ending June 30

2009

(b) Other Health Care Grants

Health Care Access 200,000

Primary Care Physician Rate Increases. (1) Of the general fund appropriation, \$200,000 is to the commissioner for the medical assistance reimbursement rate increase described in Minnesota Statutes, section 256B.766.

(2) Notwithstanding Minnesota Statutes, section 295.581, the commissioner of finance shall reimburse the medical assistance general fund account from the health care access fund the amount of general fund expenditures for this activity. The amount reimbursed under this paragraph is appropriated to the commissioner.

Subsidies for Employer-Subsidized Health Coverage. For the biennium beginning July 1, 2009, base level funding for the subsidy program described in Minnesota Statutes, section 62U.10, shall be \$20,000,000 from the health care access fund for the first year and \$35,000,000 from the health care access fund for the second year.

Base Adjustment. The health care access fund base is increased by \$3,000,000 in fiscal year 2010 and increased by \$5,000,000 in fiscal year 2011.

Subd. 4. **Health Care Management**

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

(a) Health Care Policy Administration

General 1,008,000

Health Care Access 282,000

Base Adjustment. The health care access fund is decreased by \$89,000 in fiscal year 2010 and decreased by \$272,000 in fiscal year 2011.

Base Adjustment. The general fund base is decreased by \$80,000 in both fiscal years 2010 and 2011.

APPROPRIATIONS
Available for the Year
Ending June 30

2009

Department of Education Computer System. \$50,000 is from the health care access fund for the commissioner to enter into an agreement with the Department of Education for the modification of the department's computer system to implement Minnesota Statutes, section 124D.1115. This is a onetime appropriation.

Public dental coverage program study. (1) Of the health care access fund appropriation, \$50,000 in fiscal year 2009 is for the commissioner of human services to undertake a study to determine whether alternative approaches to offering dental coverage to public program enrollees would result in:

(i) improved access to dental care;

(ii) cost savings to providers and the department; and

(iii) improved quality and outcomes of care.

Alternatives considered must include moving to a single dental plan administrator, retaining the current model, and other innovative approaches. Issues relating to chronic disease management, medical and dental interface, plan payment approaches, and provider payment should also be addressed. The report must make a recommendation on whether to alter the current approach to contracting for dental services, and include a detailed plan on how to implement any changes. The commissioner shall consult with dentists, safety net dental providers, dental plans, health plans and county-based purchasing organizations, patients and advocates, and other interested parties in developing their findings and recommendations.

(2) By December 15, 2008, the commissioner of human services shall report findings and recommendations to the chairs of the house of representatives and senate committees having jurisdiction over health and human services policy and finance.

(b) Health Care Operations

General 219,000

Health Care Access 2,355,000

This is a onetime appropriation.

APPROPRIATIONS
Available for the Year
Ending June 30

2009

Incentive Program and Outreach Grants. Of the appropriation for the Minnesota health care outreach program in Laws 2007, chapter 147, article 19, section 3, subdivision 7, paragraph (b):

(1) \$400,000 in fiscal year 2009 from the general fund and \$200,000 in fiscal year 2009 from the health care access fund are for the incentive program under Minnesota Statutes, section 256.962, subdivision 5. For the biennium beginning July 1, 2009, base level funding for this activity shall be \$360,000 from the general fund and \$160,000 from the health care access fund; and

(2) \$100,000 in fiscal year 2009 from the general fund and \$50,000 in fiscal year 2009 from the health care access fund are for the outreach grants under Minnesota Statutes, section 256.962, subdivision 2. For the biennium beginning July 1, 2009, base level funding for this activity shall be \$90,000 from the general fund and \$40,000 from the health care access fund.

Outreach Funding. (1) Of the health care access fund appropriation, \$100,000 is for the incentive program under Minnesota Statutes, section 256.962, subdivision 5. This is in addition to the base level fund for the biennium beginning July 1, 2009. For the fiscal year beginning July 1, 2011, appropriations for this activity shall be from the health savings reinvestment fund.

(2) Notwithstanding Minnesota Statutes, section 295.581, the commissioner of finance shall reimburse the medical assistance general fund account from the health care access fund by \$701,000 in fiscal year 2010 and \$1,527,000 in fiscal year 2011 for the cost to the general fund for the increase in enrollment to the medical assistance program for families with children due to the outreach efforts.

Base Adjustment. The health care access fund base is decreased by \$387,000 in fiscal year 2010 and increased by \$642,000 in fiscal year 2011.

Subd. 5. Continuing Care Management

Health Care Access

804,000

Long-Term Care Worker Health Coverage Study. (a) Of the health care access fund appropriation, \$804,000 is for the commissioner to study and report to the legislature by December 15, 2008, with recommendations for a rate increase to long-term care employers dedicated to the purchase of employee health insurance in the private market. The commissioner shall collect necessary actuarial data, employment data, current coverage data, and other needed information.

APPROPRIATIONS
Available for the Year
Ending June 30

2009

(b) The commissioner shall develop cost estimates for three levels of insurance coverage for long-term care workers:

(1) the coverage provided to state employees;

(2) the coverage provided to MinnesotaCare enrollees; and

(3) the benefits provided under an "average" private market insurance product, but with a deductible limited to \$100 per person.

Premium cost sharing, waiting periods for eligibility, definitions of full- and part-time employment, and other parameters under the three options must be identical to those under the state employees' health plan.

(c) For purposes of this section, a long-term care worker is a person employed by a nursing facility, an intermediate care facility for persons with developmental disabilities, or a service provider that:

(1) is eligible under Laws 2007, chapter 147, article 7, section 71; and

(2) provides long-term care services.

The commissioner may recommend a different definition of long-term care worker if this definition presents insurmountable implementation issues.

(d) The recommendations must include measures to:

(1) ensure equitable treatment between employers that currently have different levels of expenditure for employee health insurance costs; and

(2) enforce the requirement that the rate increase be expended for the intended purpose.

This is a onetime appropriation.

Sec. 4. **COMMISSIONER OF HEALTH**

Subdivision 1. **Total Appropriation**

\$7,111,000

APPROPRIATIONS
Available for the Year
Ending June 30

2009

Appropriations by Fund

2009

Health Care Access 7,935,000

General (824,000)

The amounts that may be spent for each purpose are specified in the following subdivisions.

Subd. 2. Community and Family Health Promotion

Health Care Access 152,000

\$152,000 in fiscal year 2009 is for statewide health saving research and measurement.

Statewide Health Improvement Program. The health care access fund base shall be increased by \$19,587,000 in fiscal year 2010 and \$26,175,000 in fiscal year 2011 for grants to local communities in accordance with Minnesota Statutes, section 145.986, subdivision 2; \$205,000 in fiscal year 2010 and \$424,000 in fiscal year 2011 is for staffing; \$22,000 in fiscal year 2010 and \$42,000 in fiscal year 2011 is for operating costs; \$150,000 in fiscal year 2010 and \$300,000 in fiscal year 2011 is for contracts for evaluation; and \$36,000 in fiscal year 2010 and \$60,000 in fiscal year 2011 is for administrative costs. The base for this program in fiscal year 2012 is \$0.

Subd. 3. Policy, Quality, and Compliance

Health Care Access 7,783,000

General (824,000)

Open Door Health Center. Of the health care access fund appropriation, \$350,000 is to be awarded as a grant to the Open Door Health Center to act as bridge funding to meet the demand for health care services in medically underserved areas. This is a onetime appropriation.

APPROPRIATIONS
Available for the Year
Ending June 30

2009

Of this appropriation, \$84,000 is for the commissioner to make recommendations to the legislature on community benefit standards to be required of nonprofit health plan companies doing business in the state. The expectations of the community benefits provided and reported should be related to the statutory expectations in Minnesota Statutes, sections 62C.01 and 62D.01, and focus on supporting public health, improving the art and science of medical care, and addressing the need for financial assistance to access ongoing coverage, and not related to general philanthropic endeavors. The commissioner shall seek public input regarding the range of options to be explored and the accountability measures.

The recommendations must include a procedure by which each nonprofit health plan company would periodically and uniformly report to the state and to the public regarding the company's compliance with the requirements.

The commissioner shall recommend a fair and effective enforcement and remediation mechanism. This is a onetime appropriation.

Federally Qualified Health Centers. Of the health care access fund appropriation, \$2,824,000 is for subsidies to federally qualified health centers under Minnesota Statutes, section 145.9269. The health care access fund base shall be \$3,500,000 for fiscal years 2010 and 2011.

The general fund appropriation for this program shall be reduced by \$824,000 for fiscal year 2009, and by \$1,500,000 in both fiscal years 2010 and 2011.

Base Adjustment. The health care access fund base shall be further reduced by \$4,104,000 in fiscal year 2010 and \$4,323,000 in fiscal year 2011.

Sec. 5. **SUNSET OF UNCODIFIED LANGUAGE.**

All uncoded language contained in this article expires on June 30, 2009, unless a different expiration date is specified.

Sec. 6. **EFFECTIVE DATE.**

The provisions in this article are effective July 1, 2008, unless a different effective date is specified."

Delete the title and insert:

"A bill for an act relating to health care; establishing a statewide health improvement program; establishing health care homes and reporting requirements; establishing a care coordination payment; increasing reimbursements to primary care physicians in certain areas; requiring a workforce shortage study; establishing requirements for interoperable health records; establishing electronic prescription drug program; establishing a value-based benefit set and design for health benefits; providing for health care payment restructuring; requiring uniform standards; establishing an affordability standard; requiring development of employee subsidies for health coverage; requiring a health care spending baseline be developed; establishing a health care reform review council; establishing Section 125 Plan; providing for fees; requiring reports; authorizing rulemaking; appropriating money; amending Minnesota Statutes 2006, sections 256.01, by adding a subdivision; 256B.057, subdivision 8; 256L.05, by adding a subdivision; 256L.06, subdivision 3; 256L.07, subdivision 3; Minnesota Statutes 2007 Supplement, sections 62J.495, by adding a subdivision; 256.962, subdivisions 5, 6; 256L.04, subdivisions 1, 7; 256L.05, subdivision 3a; 256L.07, subdivision 1; 256L.15, subdivision 2; Laws 2007, chapter 147, article 5, section 19; proposing coding for new law in Minnesota Statutes, chapters 62J; 124D; 145; 256B; proposing coding for new law as Minnesota Statutes, chapter 62U; repealing Minnesota Statutes 2006, section 256L.15, subdivision 3."

We request the adoption of this report and repassage of the bill.

House Conferees: THOMAS HUNTLEY, PAUL THISSEN, DIANE LOEFFLER AND KIM NORTON.

Senate Conferees: LINDA BERGLIN, ANN LYNCH, TONY LOUREY, KATHY SHERAN AND JULIE A. ROSEN.

Huntley moved that the report of the Conference Committee on H. F. No. 3391 be adopted and that the bill be repassed as amended by the Conference Committee.

Abeler moved that the House refuse to adopt the Conference Committee report on H. F. No. 3391 and that the bill be returned to the Conference Committee.

A roll call was requested and properly seconded.

The Speaker called Juhnke to the Chair.

The question was taken on the Abeler motion and the roll was called. There were 50 yeas and 83 nays as follows:

Those who voted in the affirmative were:

Abeler	DeLaForest	Garofalo	Kohls	Peppin	Tschumper
Anderson, B.	Demmer	Gottwalt	Lanning	Peterson, N.	Urdahl
Anderson, S.	Dettmer	Gunther	Magnus	Ruth	Wardlow
Beard	Drazkowski	Hackbarth	McFarlane	Seifert	Westrom
Berns	Eastlund	Hamilton	McNamara	Severson	Zellers
Brod	Emmer	Heidgerken	Nornes	Shimanski	
Buesgens	Erhardt	Holberg	Olson	Simpson	
Cornish	Erickson	Hoppe	Ozment	Smith	
Dean	Finstad	Howes	Paulsen	Tingelstad	

Those who voted in the negative were:

Anzelc	Eken	Jaros	Loeffler	Olin	Slocum
Atkins	Faust	Johnson	Madore	Otremba	Solberg
Benson	Fritz	Juhnke	Mahoney	Paymar	Swails
Bigham	Gardner	Kahn	Mariani	Pelowski	Thao
Bly	Greiling	Kalin	Marquart	Peterson, A.	Thissen
Brown	Hansen	Knuth	Masin	Peterson, S.	Tillberry
Brynaert	Hausman	Koenen	Moe	Poppe	Wagenius
Bunn	Haws	Kranz	Morgan	Rukavina	Walker
Carlson	Hilstrom	Laine	Morrow	Ruud	Ward
Clark	Hilty	Lenczewski	Mullery	Sailer	Welti
Davnie	Hornstein	Lesch	Murphy, E.	Scalze	Winkler
Dittrich	Hortman	Liebling	Murphy, M.	Sertich	Wollschlager
Dominguez	Hosch	Lieder	Nelson	Simon	Spk. Kelliher
Doty	Huntley	Lillie	Norton	Slawik	

The motion did not prevail.

The question recurred on the Huntley motion that the report of the Conference Committee on H. F. No. 3391 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 3391, A bill for an act relating to health care reform; increasing affordability and continuity of care for state health care programs; modifying health care provisions; providing subsidies for employee share of employer-subsidized insurance in certain cases; establishing the Health Care Transformation Commission; creating an affordability standard; implementing a statewide health improvement program; requiring an evaluation of mandated health benefits; requiring a payment system to encourage provider innovation; requiring studies and reports; appropriating money; amending Minnesota Statutes 2006, sections 62Q.025, by adding a subdivision; 256.01, subdivision 18; 256B.056, by adding a subdivision; 256B.057, subdivision 8; 256B.69, by adding a subdivision; 256L.05, by adding a subdivision; 256L.06, subdivision 3; 256L.07, subdivision 3, by adding a subdivision; 256L.15, by adding a subdivision; Minnesota Statutes 2007 Supplement, sections 256.01, subdivision 2b; 256B.056, subdivision 10; 256L.03, subdivisions 3, 5; 256L.04, subdivisions 1, 7; 256L.05, subdivision 3a; 256L.07, subdivision 1; 256L.15, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 145; 256B; proposing coding for new law as Minnesota Statutes, chapter 62U; repealing Minnesota Statutes 2006, section 256L.15, subdivision 3.

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 83 yeas and 50 nays as follows:

Those who voted in the affirmative were:

Anzelc	Clark	Fritz	Hornstein	Kalin	Lieder
Atkins	Davnie	Gardner	Hortman	Knuth	Lillie
Benson	Dittrich	Greiling	Hosch	Koenen	Loeffler
Bigham	Dominguez	Hansen	Huntley	Kranz	Mahoney
Brown	Doty	Hausman	Jaros	Laine	Mariani
Brynaert	Eken	Haws	Johnson	Lenczewski	Marquart
Bunn	Erhardt	Hilstrom	Juhnke	Lesch	Masin
Carlson	Faust	Hilty	Kahn	Liebling	Moe

Morgan	Norton	Peterson, S.	Sertich	Thao	Ward
Morrow	Olin	Poppe	Simon	Thissen	Welti
Mullery	Otremba	Rukavina	Slawik	Tillberry	Winkler
Murphy, E.	Paymar	Ruud	Slocum	Tschumper	Wollschlager
Murphy, M.	Pelowski	Sailer	Solberg	Wagenius	Spk. Kelliher
Nelson	Peterson, A.	Scalze	Swails	Walker	

Those who voted in the negative were:

Abeler	Dean	Garofalo	Kohls	Paulsen	Tingelstad
Anderson, B.	DeLaForest	Gottwalt	Lanning	Peppin	Urdahl
Anderson, S.	Demmer	Gunther	Madore	Peterson, N.	Wardlow
Beard	Dettmer	Hackbarth	Magnus	Ruth	Westrom
Berns	Drazkowski	Hamilton	McFarlane	Seifert	Zellers
Bly	Eastlund	Heidgerken	McNamara	Severson	
Brod	Emmer	Holberg	Nornes	Shimanski	
Buesgens	Erickson	Hoppe	Olson	Simpson	
Cornish	Finstad	Howes	Ozment	Smith	

The bill was repassed, as amended by Conference, and its title agreed to.

There being no objection, the order of business reverted to Reports of Standing Committees and Divisions.

REPORTS OF STANDING COMMITTEES AND DIVISIONS

Carlson from the Committee on Finance to which was referred:

H. F. No. 3809, A bill for an act relating to human services; improving management of state health care programs; modifying managed care contracting; limiting managed care administrative expenses; modifying county-based purchasing; requiring mandated reports; amending Minnesota Statutes 2006, sections 13.461, by adding a subdivision; 256B.69, subdivision 5a, by adding subdivisions; 256B.692, subdivision 2, by adding subdivisions; 256L.12, subdivision 9; Laws 2005, First Special Session chapter 4, article 8, section 84, as amended.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2006, section 13.461, is amended by adding a subdivision to read:

Subd. 24a. **Managed care plans.** Data provided to the commissioner of human services by managed care plans relating to contracts and provider payment rates are classified under section 256B.69, subdivisions 9a and 9b.

Sec. 2. Minnesota Statutes 2006, section 256B.69, subdivision 5a, is amended to read:

Subd. 5a. **Managed care contracts.** (a) Managed care contracts under this section and sections 256L.12 and 256D.03, shall be entered into or renewed on a calendar year basis beginning January 1, 1996. Managed care contracts which were in effect on June 30, 1995, and set to renew on July 1, 1995, shall be renewed for the period July 1, 1995 through December 31, 1995 at the same terms that were in effect on June 30, 1995. The commissioner may issue separate contracts with requirements specific to services to medical assistance recipients age 65 and older.

(b) A prepaid health plan providing covered health services for eligible persons pursuant to chapters 256B, 256D, and 256L, is responsible for complying with the terms of its contract with the commissioner. Requirements applicable to managed care programs under chapters 256B, 256D, and 256L, established after the effective date of a contract with the commissioner take effect when the contract is next issued or renewed.

(c) Effective for services rendered on or after January 1, 2003, the commissioner shall withhold five percent of managed care plan payments under this section for the prepaid medical assistance and general assistance medical care programs pending completion of performance targets. Each performance target must be quantifiable, objective, measurable, and reasonably attainable, except in the case of a performance target based on a federal or state law or rule. Criteria for assessment of each performance target must be outlined in writing prior to the contract effective date. The managed care plan must demonstrate, to the commissioner's satisfaction, that the data submitted regarding attainment of the performance target is accurate. The commissioner shall periodically change the administrative measures used as performance targets in order to improve plan performance across a broader range of administrative services. The performance targets must include measurement of plan efforts to contain spending on health care services and administrative activities. The commissioner may adopt plan-specific performance targets that take into account factors affecting only one plan, including characteristics of the plan's enrollee population. The withheld funds must be returned no sooner than July of the following year if performance targets in the contract are achieved. The commissioner may exclude special demonstration projects under subdivision 23. A managed care plan or a county-based purchasing plan under section 256B.692 may include as admitted assets under section 62D.044 any amount withheld under this paragraph that is reasonably expected to be returned.

Sec. 3. Minnesota Statutes 2006, section 256B.69, is amended by adding a subdivision to read:

Subd. 5i. **Administrative expenses.** (a) Managed care plan and county-based purchasing plan administrative costs for a prepaid health plan provided under this section or section 256B.692 must not exceed by more than five percent that prepaid health plan's or county-based purchasing plan's actual calculated administrative spending for the previous calendar year as a percentage of total revenue. The penalty for exceeding this limit must be the amount of administrative spending in excess of 105 percent of the actual calculated amount. The commissioner may waive this penalty if the excess administrative spending is the result of unexpected shifts in enrollment or member needs or new program requirements.

(b) Expenses listed under section 62D.12, subdivision 9a, clause (4), are not allowable administrative expenses for rate-setting purposes under this section, unless approved by the commissioner.

Sec. 4. Minnesota Statutes 2006, section 256B.69, is amended by adding a subdivision to read:

Subd. 5j. **Treatment of investment earnings.** Capitation rates shall treat investment income and interest earnings as income to the same extent that investment-related expenses are treated as administrative expenditures.

Sec. 5. Minnesota Statutes 2006, section 256B.69, is amended by adding a subdivision to read:

Subd. 9a. **Administrative expense reporting.** The commissioner shall work with the commissioner of health to identify and collect data on administrative spending for state health care programs reported to the commissioner of health by managed care plans under section 62D.08 and county-based purchasing plans under section 256B.692, provided that such data are consistent with guidelines and standards for administrative spending that are developed by the commissioner of health, and reported to the legislature under section 12 of this act. Data provided to the commissioner under this subdivision are nonpublic data as defined under section 13.02.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 6. Minnesota Statutes 2006, section 256B.69, is amended by adding a subdivision to read:

Subd. 9b. Reporting provider payment rates. (a) According to guidelines developed by the commissioner, in consultation with managed care plans and county-based purchasing plans, each managed care plan and county-based purchasing plan must provide to the commissioner, at the commissioner's request, detailed or aggregate information on reimbursement rates paid by the managed care plan under this section or the county-based purchasing plan under section 256B.692 to provider types and vendors for administrative services under contract with the plan.

(b) Data provided to the commissioner under this subdivision are nonpublic data as defined in section 13.02.

EFFECTIVE DATE. This section is effective January 1, 2010.

Sec. 7. Minnesota Statutes 2006, section 256B.692, subdivision 2, is amended to read:

Subd. 2. Duties of commissioner of health. (a) Notwithstanding chapters 62D and 62N, a county that elects to purchase medical assistance and general assistance medical care in return for a fixed sum without regard to the frequency or extent of services furnished to any particular enrollee is not required to obtain a certificate of authority under chapter 62D or 62N. The county board of commissioners is the governing body of a county-based purchasing program. In a multicounty arrangement, the governing body is a joint powers board established under section 471.59.

(b) A county that elects to purchase medical assistance and general assistance medical care services under this section must satisfy the commissioner of health that the requirements for assurance of consumer protection, provider protection, and, effective January 1, 2010, fiscal solvency of chapter 62D, applicable to health maintenance organizations, or chapter 62N, applicable to community integrated service networks, will be met; according to the following schedule:

(1) for a county-based purchasing plan approved on or before June 30, 2008, the plan must have in reserve:

(i) at least 50 percent of the minimum amount required under chapter 62D as of January 1, 2010;

(ii) at least 75 percent of the minimum amount required under chapter 62D as of January 1, 2011;

(iii) at least 87.5 percent of the minimum amount required under chapter 62D as of January 1, 2012; and

(iv) at least 100 percent of the minimum amount required under chapter 62D as of January 1, 2013; and

(2) for a county-based purchasing plan first approved after June 30, 2008, the plan must have in reserve:

(i) at least 50 percent of the minimum amount required under chapter 62D at the time the plan begins enrolling enrollees;

(ii) at least 75 percent of the minimum amount required under chapter 62D after the first full calendar year;

(iii) at least 87.5 percent of the minimum amount required under chapter 62D after the second full calendar year;
and

(iv) at least 100 percent of the minimum amount required under chapter 62D after the third full calendar year.

(c) Until a plan is required to have reserves equaling at least 100 percent of the minimum amount required under chapter 62D, the plan may demonstrate its ability to cover any losses by satisfying the requirements of chapter 62N. A ~~county~~ county-based purchasing plan must also assure the commissioner of health that the requirements of sections 62J.041; 62J.48; 62J.71 to 62J.73; 62M.01 to 62M.16; all applicable provisions of chapter 62Q, including sections 62Q.075; 62Q.1055; 62Q.106; 62Q.12; 62Q.135; 62Q.14; 62Q.145; 62Q.19; 62Q.23, paragraph (c); 62Q.43; 62Q.47; 62Q.50; 62Q.52 to 62Q.56; 62Q.58; 62Q.68 to 62Q.72; and 72A.201 will be met.

(d) All enforcement and rulemaking powers available under chapters 62D, 62J, 62M, 62N, and 62Q are hereby granted to the commissioner of health with respect to counties that purchase medical assistance and general assistance medical care services under this section.

(e) The commissioner, in consultation with county government, shall develop administrative and financial reporting requirements for county-based purchasing programs relating to sections 62D.041, 62D.042, 62D.045, 62D.08, 62N.28, 62N.29, and 62N.31, and other sections as necessary, that are specific to county administrative, accounting, and reporting systems and consistent with other statutory requirements of counties.

(f) The commissioner shall collect from a county-based purchasing plan under this section the following fees:

(1) fees attributable to the costs of audits and other examinations of plan financial operations. These fees are subject to the provisions of Minnesota Rules, part 4685.2800, subpart 1, item F;

(2) an annual fee of \$21,500, to be paid by June 15 of each calendar year, beginning in calendar year 2009; and

(3) for fiscal year 2009 only, a per-enrollee fee of 14.6 cents, based on the number of enrollees as of December 31, 2008.

All fees collected under this paragraph shall be deposited in the state government special revenue fund.

Sec. 8. Minnesota Statutes 2006, section 256B.692, is amended by adding a subdivision to read:

Subd. 4a. **Expenditure of revenues.** (a) A county that has elected to participate in a county-based purchasing plan under this section shall use any excess revenues over expenses that are received by the county and are not needed (1) for capital reserves under subdivision 2, (2) to increase payments to providers, or (3) to repay county investments or contributions to the county-based purchasing plan, for prevention, early intervention, and health care programs, services, or activities.

(b) A county-based purchasing plan under this section is subject to the unreasonable expense provisions of section 62D.19.

Sec. 9. Minnesota Statutes 2006, section 256L.12, subdivision 9, is amended to read:

Subd. 9. **Rate setting; performance withholds.** (a) Rates will be prospective, per capita, where possible. The commissioner may allow health plans to arrange for inpatient hospital services on a risk or nonrisk basis. The commissioner shall consult with an independent actuary to determine appropriate rates.

(b) For services rendered on or after January 1, 2003, to December 31, 2003, the commissioner shall withhold .5 percent of managed care plan payments under this section pending completion of performance targets. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following year if performance targets in the contract are achieved. A managed care plan may include as admitted assets under section 62D.044 any amount withheld under this paragraph that is reasonably expected to be returned.

(c) For services rendered on or after January 1, 2004, the commissioner shall withhold five percent of managed care plan payments under this section pending completion of performance targets. Each performance target must be quantifiable, objective, measurable, and reasonably attainable, except in the case of a performance target based on a federal or state law or rule. Criteria for assessment of each performance target must be outlined in writing prior to the contract effective date. The managed care plan must demonstrate, to the commissioner's satisfaction, that the data submitted regarding attainment of the performance target is accurate. The commissioner shall periodically change the administrative measures used as performance targets in order to improve plan performance across a broader range of administrative services. The performance targets must include measurement of plan efforts to contain spending on health care services and administrative activities. The commissioner may adopt plan-specific performance targets that take into account factors affecting only one plan, such as characteristics of the plan's enrollee population. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following calendar year if performance targets in the contract are achieved. A managed care plan or a county-based purchasing plan under section 256B.692 may include as admitted assets under section 62D.044 any amount withheld under this paragraph that is reasonably expected to be returned.

Sec. 10. Laws 2005, First Special Session chapter 4, article 8, section 84, as amended by Laws 2006, chapter 264, section 15, is amended to read:

Sec. 84. SOLE-SOURCE OR SINGLE-PLAN MANAGED CARE CONTRACT.

(a) Notwithstanding Minnesota Statutes, section 256B.692, subdivision 6, clause (1), paragraph (c), the commissioner of human services shall approve a county-based purchasing health plan proposal, submitted on behalf of Cass, Crow Wing, Morrison, Todd, and Wadena Counties, that requires county-based purchasing on a single-plan basis contract if the implementation of the single-plan purchasing proposal does not limit an enrollee's provider choice or access to services and all other requirements applicable to health plan purchasing are satisfied. The commissioner shall continue single health plan purchasing arrangements with county based purchasing entities in the service areas in existence on May 1, 2006, including arrangements for which a proposal was submitted by May 1, 2006, on behalf of Cass, Crow Wing, Morrison, Todd, and Wadena Counties, in response to a request for proposals issued by the commissioner. The commissioner shall continue to use single-health plan, county-based purchasing arrangements for medical assistance and general assistance medical care programs and products for the counties that were in single-health plan, county-based purchasing arrangements on March 1, 2008. This paragraph does not require the commissioner to terminate an existing contract with a noncounty-based purchasing plan that had enrollment in a medical assistance program or product in these counties on March 1, 2008. This paragraph expires on December 31, 2010, or the effective date of a new contract for medical assistance and general assistance medical care managed care programs entered into at the conclusion of the commissioner's next scheduled repurchase process for the county-based purchasing entities covered by this paragraph, whichever is later.

(b) The commissioner shall consider, and may approve, contracting on a single-health plan basis with other county-based purchasing plans, or with other qualified health plans that have coordination arrangements with counties, to serve persons with a disability who voluntarily enroll, in order to promote better coordination or integration of health care services, social services and other community-based services, provided that all requirements applicable to health plan purchasing, including those in Minnesota Statutes, section 256B.69, subdivision 23, are satisfied. By January 15, 2007, the commissioner shall report to the chairs of the appropriate legislative committees in the house and senate an analysis of the advantages and disadvantages of using single-health plan purchasing to serve persons with a disability who are eligible for health care programs. The report shall include consideration of the impact of federal health care programs and policies for persons who are eligible for both federal and state health care programs and shall consider strategies to improve coordination between federal and state health care programs for those persons. Nothing in this paragraph supersedes or modifies the requirements in paragraph (a).

Sec. 11. REPORT ON FINANCIAL MANAGEMENT OF HEALTH CARE PROGRAMS.

Within the limits of available appropriations, the commissioner of human services shall report to the legislature under Minnesota Statutes, section 3.195, by January 15, 2009, with the following information regarding financial management of health care programs:

(1) a status report on implementation of the cost containment strategies identified in the 2005 "Strategies for Savings" report. The report must include:

(i) information on progress made towards implementation of cost-saving strategies;

(ii) an explanation of why certain strategies were not implemented; and

(iii) where appropriate, alternative strategies to those recommended in 2005 for containing public health care program costs;

(2) a description of and, to the extent possible, an explanation of recent differences between the health plan net revenue targets established by the commissioner for health plans participating in public health care programs and the actual net revenue realized by the plans from public programs;

(3) the adequacy of public health care program for fee-for-service rates, including an identification of service areas or geographical regions where enrollees have difficulty accessing providers as the result of inadequate provider payments. This report must include recommendations to increase rates as needed to eliminate identified access problems; and

(4) a progress report on implementation of Minnesota Statutes, section 256B.76, paragraph (e), requiring payments for physician and professional services to be based on Medicare relative value units, and an estimated completion date for implementation of this payment system.

Sec. 12. HEALTH PLAN AND COUNTY-BASED PURCHASING PLAN REQUIREMENTS.

The commissioner of health shall develop and report to the legislature under Minnesota Statutes, section 3.195, by January 15, 2009, guidelines to ensure that health plans, and county-based purchasing plans where applicable, have consistent procedures for allocating administrative expenses and investment income across their commercial and public lines of business and across individual public programs. The guidelines shall be consistent with generally accepted accounting principles and principles from the National Association of Insurance Commissioners. The guidelines shall not have the effect of changing allocation for Medicare-related programs as permitted by federal law and the Centers for Medicare and Medicaid Services. The report shall include recommendations and cost estimates for developing detailed standards and procedures for examining the reasonableness of health plan and county-based purchasing plan administrative expenditures for publicly funded programs. These standards and procedures must include a process for detailed examinations of individual programs and functional areas.

Sec. 13. OMBUDSMAN FOR MANAGED CARE STUDY.

Within the limits of available appropriations, the commissioner of human services, in cooperation with the ombudsman for managed care, shall study and report to the legislature under Minnesota Statutes, section 3.195, by January 15, 2009, with recommendations on whether the duties of the ombudsman should be expanded to include advocating on behalf of public health care program fee-for-service enrollees. The report must include:

(1) a comparison of the recourse available to managed care clients versus fee-for-service clients when service problems occur; and

(2) an estimate of any net cost increase from this change in the ombudsman's duties, taking into account any reduction in the commissioner's duties.

Sec. 14. **REPORTING MANAGED CARE PERFORMANCE DATA.**

The commissioner of human services, in cooperation with the commissioner of health, shall report to the legislature under Minnesota Statutes, section 3.195, by January 15, 2009, with recommendations on the adoption of a single method to compute and publicly report managed health care performance measures in order to avoid confusion about the plans' performance levels. The study must include recommendations regarding coordinated use by the two agencies of the following data sources:

(1) Healthcare Effectiveness Data and Information Set (HEDIS) from managed care organizations;

(2) data that health plans submit to claim reimbursement for health care procedures; and

(3) data collected from medical record reviews of randomly selected individuals.

Sec. 15. **CREDENTIALING METHODOLOGY.**

The commissioner of human services shall explore the feasibility of using or coordinating with the credentialing collaborative between Minnesota payers, providers, and hospitals in order to make the provider enrollment process for Minnesota health care programs more efficient. By December 15, 2009, the commissioner shall inform the chairs of the senate and house of representatives policy committees and finance divisions with responsibility for human services of the results of these efforts.

Sec. 16. **HEALTH MAINTENANCE ORGANIZATION RENEWAL FEE.**

The health maintenance organization renewal fee under Minnesota Rules, part 4685.2800, subpart 2, shall be increased by 14.6 cents from the level in effect on June 30, 2008, for the fiscal year beginning July 1, 2008. The renewal fee shall revert to its previous level for fiscal years beginning on or after July 1, 2009.

Sec. 17. **APPROPRIATIONS.**

(a) \$261,000 is appropriated from the state government special revenue fund to the commissioner of health for the purposes of this act for fiscal year 2009. Base level funding for this appropriation shall be \$77,000 for fiscal years beginning on or after July 1, 2009.

(b) Of the appropriation in paragraph (a), \$116,000 in fiscal year 2009 is for the study and report required in section 12, \$145,000 in fiscal year 2009 shall be transferred to the general fund, and \$77,000 shall be transferred for each fiscal year beginning on or after July 1, 2009.

(c) \$145,000 is appropriated from the general fund to the commissioner of human services for fiscal year 2009 for the actuarial and other department costs associated with additional reporting requirements for health plans and county-based purchasing plans. Base level funding for this appropriation for fiscal years beginning on or after July 1, 2009, shall be \$135,000 each year.

(d) \$96,000 is appropriated from the general fund to the commissioner of human services for fiscal year 2009 for the study authorized in section 11, clause (3). This appropriation is onetime."

Delete the title and insert:

"A bill for an act relating to human services; improving management of state health care programs; modifying managed care contracting; modifying county-based purchasing; requiring reports; appropriating money; amending Minnesota Statutes 2006, sections 13.461, by adding a subdivision; 256B.69, subdivision 5a, by adding subdivisions; 256B.692, subdivision 2, by adding a subdivision; 256L.12, subdivision 9; Laws 2005, First Special Session chapter 4, article 8, section 84, as amended."

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.

Carlson from the Committee on Finance to which was referred:

S. F. No. 3502, A bill for an act relating to traffic regulations; modifying provisions regulating farm vehicles on highways; providing for size, weight, and load restrictions on highways; amending Minnesota Statutes 2006, sections 169.01, subdivision 55; 169.18, subdivision 5; 169.67, subdivision 3; 169.801; 169.82, subdivision 3; 169.826, subdivision 1a; repealing Minnesota Statutes 2006, section 169.145.

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

The report was adopted.

SECOND READING OF SENATE BILLS

S. F. No. 3502 was read for the second time.

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Madam Speaker:

I hereby announce that the Senate has reconsidered the vote whereby S. F. No. 3138 was repassed and has also reconsidered the vote whereby the recommendations and the Conference Committee report were adopted on May 1, 2008.

S. F. No. 3138, A bill for an act relating to health; changing provisions for handling genetic information; amending Minnesota Statutes 2006, sections 13.386, subdivision 3; 144.05, by adding a subdivision; Minnesota Statutes 2007 Supplement, section 144.125, subdivision 3.

As requested by the House, the Senate has re-referred the subject matter of said bill to the Conference Committee, as formerly constituted, for further consideration.

COLLEEN J. PACHECO, Second Assistant Secretary of the Senate

Madam Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 3222, A bill for an act relating to human services; amending health care services provisions; making changes to general assistance medical care, medical assistance, and MinnesotaCare; modifying claims, liens, and treatment of assets; establishing a statewide information exchange; amending Minnesota Statutes 2006, sections 245.462, subdivision 18; 245.470, subdivision 1; 245.4871, subdivision 27; 245.488, subdivision 1; 256B.056, subdivisions 2, 4a, 11, by adding a subdivision; 256B.057, subdivision 1; 256B.0571, subdivisions 8, 9, 15, by adding a subdivision; 256B.058; 256B.059, subdivisions 1, 1a; 256B.0594; 256B.0595, subdivisions 1, 2, 3, 4, by adding subdivisions; 256B.0624, subdivisions 5, 8; 256B.0625, subdivision 13g; 256B.075, subdivision 2; 256B.0943, subdivision 1; 256B.15, subdivision 4; 256B.69, subdivisions 6, 27, 28; 256J.08, subdivision 73a; 524.3-803; Minnesota Statutes 2007 Supplement, sections 256.01, subdivision 2b; 256B.055, subdivision 14; 256B.0623, subdivision 5; 256B.0625, subdivision 49; 256D.03, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 256B.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

COLLEEN J. PACHECO, Second Assistant Secretary of the Senate

FISCAL CALENDAR

Pursuant to rule 1.22, Solberg requested immediate consideration of H. F. No. 3082.

H. F. No. 3082 was reported to the House.

Thissen moved to amend H. F. No. 3082, the third engrossment, as follows:

Page 105, after line 25, insert:

"ARTICLE 14

TEACHER RETIREMENT BENEFIT AND CONTRIBUTION INCREASES

Section 1. Minnesota Statutes 2006, section 127A.50, subdivision 1, is amended to read:

Subdivision 1. **Aid adjustment.** Beginning in fiscal year 1998 and each year thereafter, the commissioner of education shall adjust state aid payments to school operating funds for Independent School District No. 625 ~~and Independent School District No. 709~~ by the net amount of clauses (1), ~~and~~ (2), ~~and~~ (6), for ~~Special Independent~~ School District No. ~~4~~ 709 by the net amount of clauses (1), (2), and ~~(4)~~ (7), and for all other districts, including charter schools, but excluding any education organizations that are prohibited from receiving direct state aids under section 123A.26 or 125A.75, subdivision 7, by the net amount of clauses (1), (2), (3), ~~and~~ (4), ~~and~~ (5):

(1) a decrease equal to each district's share of the fiscal year 1997 adjustment effected under Minnesota Statutes 1996, section 124.2139;

(2) an increase equal to one percent of the salaries paid to members of the general plan of the Public Employees Retirement Association in fiscal year 1997, multiplied by 0.35 for fiscal year 1998 and 0.70 each year thereafter;

(3) a decrease equal to 2.34 percent of the salaries paid to members of the Teachers Retirement Association in fiscal year 1997; ~~and~~

(4) an increase equal to 0.5 percent of the salaries paid to members of the Teachers Retirement Association in fiscal year 2007; ~~i~~

(5) an increase equal to the specified percentage of the salaries paid to members of the Teachers Retirement Association in fiscal year 2010 as follows:

<u>for the 2010-2011 school year</u>	<u>0.25 percent</u>
<u>for the 2011-2012 school year</u>	<u>0.50 percent</u>
<u>for the 2012-2013 school year</u>	<u>0.75 percent</u>
<u>for the 2013-2014 school year</u>	<u>1.00 percent</u>
<u>for the 2014-2015 school year</u>	<u>1.25 percent</u>
<u>for the 2015-2016 school year and each school year thereafter</u>	<u>1.50 percent</u>

(6) an increase equal to the specified percentage of the salaries paid to members of the St. Paul Teachers Retirement Fund Association in fiscal year 2010 as follows:

<u>for the 2010-2011 school year</u>	<u>0.25 percent</u>
<u>for the 2011-2012 school year</u>	<u>0.50 percent</u>
<u>for the 2012-2013 school year</u>	<u>0.75 percent</u>
<u>for the 2013-2014 school year</u>	<u>1.00 percent</u>
<u>for the 2014-2015 school year</u>	<u>1.25 percent</u>
<u>for the 2015-2016 school year and each school year thereafter</u>	<u>1.50 percent</u>

(7) an increase equal to the specified percentage of the salaries paid to members of the Duluth Teachers Retirement Fund Association in fiscal year 2010 as follows:

<u>for the 2010-2011 school year</u>	<u>0.25 percent</u>
<u>for the 2011-2012 school year</u>	<u>0.50 percent</u>
<u>for the 2012-2013 school year</u>	<u>0.75 percent</u>
<u>for the 2013-2014 school year</u>	<u>1.00 percent</u>
<u>for the 2014-2015 school year</u>	<u>1.25 percent</u>
<u>for the 2015-2016 school year and each school year thereafter</u>	<u>1.50 percent</u>

EFFECTIVE DATE. This section is effective July 1, 2008.

Sec. 2. Minnesota Statutes 2006, section 354.05, subdivision 38, is amended to read:

Subd. 38. **Normal retirement age.** "Normal retirement age" means age 65 ~~for a person who first became a member of the association or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989. For a person who first becomes a member of the association after June 30, 1989, normal retirement age means the higher of age 65 or "retirement age," as defined in United States Code, title 42, section 416(l), as amended, but not to exceed age 66.~~

EFFECTIVE DATE. This section is effective July 1, 2008.

Sec. 3. Minnesota Statutes 2006, section 354.42, subdivision 2, is amended to read:

Subd. 2. **Employee.** (a) The employee contribution to the fund is an amount equal to the following percentage of the salary of a member:

~~(1) after July 1, 2006, for a teacher employed by Special School District No. 1, Minneapolis, 5.5 percent if the teacher is a coordinated member, and 9.0 percent if the teacher is a basic member;~~

~~(2) for every other teacher, after July 1, 2006, 5.5 percent if the teacher is a coordinated member and 9.0 percent if the teacher is a basic member.~~

<u>period</u>	<u>coordinated member</u>	<u>basic member</u>
<u>(1) before July 1, 2010</u>	<u>5.50 percent</u>	<u>9.00 percent</u>
<u>(2) after June 30, 2010, and before July 1, 2011</u>	<u>5.75 percent</u>	<u>9.25 percent</u>
<u>(3) after June 30, 2011, and before July 1, 2012</u>	<u>6.00 percent</u>	<u>9.50 percent</u>
<u>(4) after June 30, 2012, and before July 1, 2013</u>	<u>6.25 percent</u>	<u>9.75 percent</u>
<u>(5) unless paragraph (b) applies, after June 30, 2013, and before July 1, 2014</u>	<u>6.50 percent</u>	<u>10.00 percent</u>
<u>(6) unless paragraph (b) applies, after June 30, 2014, and before July 1, 2015</u>	<u>6.75 percent</u>	<u>10.25 percent</u>
<u>(7) unless paragraph (b) applies, after June 30, 2015</u>	<u>7.00 percent</u>	<u>10.50 percent</u>

(b) After July 1, 2012, a scheduled contribution increase under paragraph (a), clause (5), (6), or (7), is suspended if the most recent actuarial valuation prepared under section 356.215 indicates that there is no contribution deficiency when the total employee contributions, employer contributions under subdivision 3, and direct state aid under section 354A.12 are compared to the total financial requirements of the retirement plan.

(c) This contribution must be made by deduction from salary. Where any portion of a member's salary is paid from other than public funds, the member's employee contribution must be based on the entire salary received.

EFFECTIVE DATE. This section is effective July 1, 2008.

Sec. 4. Minnesota Statutes 2006, section 354.42, subdivision 3, is amended to read:

Subd. 3. **Employer.** (a) The regular employer contribution to the fund by Special School District No. 1, Minneapolis, after July 1, 2006, and before July 1, 2007, is an amount equal to 5.0 percent of the salary of each of its teachers who is a coordinated member and 9.0 percent of the salary of each of its teachers who is a basic member. After July 1, 2007, and before July 1, 2010, the regular employer contribution to the fund by Special School District

No. 1, Minneapolis, is an amount equal to 5.5 percent of salary of each coordinated member and 9.5 percent of salary of each basic member. The regular employer contribution to the fund by Special School District No. 1, Minneapolis, is an amount equal to the following percentage of the salary of each teacher:

<u>period</u>	<u>coordinated member</u>	<u>basic member</u>
<u>(1) after June 30, 2010, and before July 1, 2011</u>	<u>5.75 percent</u>	<u>9.25 percent</u>
<u>(2) after June 30, 2011, and before July 1, 2012</u>	<u>6.00 percent</u>	<u>9.50 percent</u>
<u>(3) after June 30, 2012, and before July 1, 2013</u>	<u>6.25 percent</u>	<u>9.75 percent</u>
<u>(4) unless paragraph (d) applies, after June 30, 2013, and before July 1, 2014</u>	<u>6.50 percent</u>	<u>10.00 percent</u>
<u>(5) unless paragraph (d) applies, after June 30, 2014, and before July 1, 2015</u>	<u>6.75 percent</u>	<u>10.25 percent</u>
<u>(6) unless paragraph (d) applies, after June 30, 2015</u>	<u>7.00 percent</u>	<u>10.50 percent</u>

(b) The additional employer contribution to the fund by Special School District No. 1, Minneapolis, after July 1, 2006, is an amount equal to 3.64 percent of the salary of each teacher who is a coordinated member or is a basic member.

~~(b)~~ (c) The employer contribution to the fund for every other employer is an amount equal to 5.0 percent of the salary of each coordinated member and 9.0 percent of the salary of each basic member before July 1, 2007, and 5.5 percent of the salary of each coordinated member and 9.5 percent of the salary of each basic member after June 30, 2007, and before July 1, 2010. The regular employer contribution to the fund by every other employer is an amount equal to the following percentage of the salary of each teacher:

<u>period</u>	<u>coordinated member</u>	<u>basic member</u>
<u>(1) after June 30, 2010, and before July 1, 2011</u>	<u>5.75 percent</u>	<u>9.25 percent</u>
<u>(2) after June 30, 2011, and before July 1, 2012</u>	<u>6.00 percent</u>	<u>9.50 percent</u>
<u>(3) after June 30, 2012, and before July 1, 2013</u>	<u>6.25 percent</u>	<u>9.75 percent</u>
<u>(4) unless paragraph (d) applies, after June 30, 2013, and before July 1, 2014</u>	<u>6.50 percent</u>	<u>10.00 percent</u>

(5) unless paragraph (d) applies,
after June 30, 2014, and
before July 1, 2015

6.75 percent

10.25 percent

(6) unless paragraph (d) applies,
after June 30, 2015

7.00 percent

10.50 percent

(d) After July 1, 2012, a scheduled contribution increase under paragraph (a), clause (4), (5), or (6), and paragraph (c), clause (4), (5), or (6), is suspended if the most recent actuarial valuation prepared under section 356.215 indicates that there is no contribution deficiency when the total employee contributions, employer contributions under subdivision 3, and direct state aid under section 354A.12 are compared to the total financial requirements of the retirement plan.

EFFECTIVE DATE. This section is effective July 1, 2008.

Sec. 5. Minnesota Statutes 2007 Supplement, section 354.44, subdivision 6, is amended to read:

Subd. 6. **Computation of formula program retirement annuity.** (a) The formula retirement annuity must be computed in accordance with the applicable provisions of the formulas stated in paragraph (b) or (d) on the basis of each member's average salary under section 354.05, subdivision 13a, for the period of the member's formula service credit.

(b) This paragraph, in conjunction with paragraph (c), applies to a person who first became a member of the association or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, unless paragraph (d), in conjunction with paragraph (e), produces a higher annuity amount, in which case paragraph (d) applies. The average salary as defined in section 354.05, subdivision 13a, multiplied by the following percentages per year of formula service credit shall determine the amount of the annuity to which the member qualifying therefor is entitled for service rendered before July 1, 2006:

	Coordinated Member	Basic Member
Each year of service during first ten	the percent specified in section 356.315, subdivision 1, per year	the percent specified in section 356.315, subdivision 3, per year
Each year of service thereafter	the percent specified in section 356.315, subdivision 2, per year	the percent specified in section 356.315, subdivision 4, per year

For service rendered on or after July 1, 2006, the average salary as defined in section 354.05, subdivision 13a, multiplied by the following percentages per year of service credit, determines the amount the annuity to which the member qualifying therefor is entitled:

	Coordinated Member	Basic Member
Each year of service during first ten	the percent specified in section 356.315, subdivision 1a, per year	the percent specified in section 356.315, subdivision 3, per year
Each year of service after ten years of service	the percent specified in section 356.315, subdivision 2b, per year	the percent specified in section 356.315, subdivision 4, per year

(c)(i) This paragraph applies only to a person who first became a member of the association or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, and whose annuity is higher when calculated under paragraph (b), in conjunction with this paragraph than when calculated under paragraph (d), in conjunction with paragraph (e).

(ii) Where any member retires prior to normal retirement age under a formula annuity, the member shall be paid a retirement annuity in an amount equal to the normal annuity provided in paragraph (b) reduced by one-quarter of one percent for each month that the member is under normal retirement age at the time of retirement except that for any member who has 30 or more years of allowable service credit, the reduction shall be applied only for each month that the member is under age 62.

(iii) Any member whose attained age plus credited allowable service totals 90 years is entitled, upon application, to a retirement annuity in an amount equal to the normal annuity provided in paragraph (b), without any reduction by reason of early retirement.

(d) This paragraph applies to a member who has become at least 55 years old and first became a member of the association after June 30, 1989, and to any other member who has become at least 55 years old and whose annuity amount when calculated under this paragraph and in conjunction with paragraph (e), is higher than it is when calculated under paragraph (b), in conjunction with paragraph (c). For a basic member, the average salary, as defined in section 354.05, subdivision 13a, multiplied by the percent specified by section 356.315, subdivision 4, for each year of service for a basic member shall determine the amount of the retirement annuity to which the basic member is entitled. The annuity of a basic member who was a member of the former Minneapolis Teachers Retirement Fund Association as of June 30, 2006, must be determined according to the annuity formula under the articles of incorporation of the former Minneapolis Teachers Retirement Fund Association in effect as of that date. For a coordinated member, the average salary, as defined in section 354.05, subdivision 13a, multiplied by the percent specified in section 356.315, subdivision 2, for each year of service rendered before July 1, 2006, ~~and~~ by the percent specified in section 356.315, subdivision 2b, for each year of service rendered on or after July 1, 2006, and before July 1, 2008, and by the percent specified in section 356.315, subdivision 2c, for each year of service rendered after June 30, 2008, determines the amount of the retirement annuity to which the coordinated member is entitled. If the member has 30 or more years of service credit, the minimum age requirement of this paragraph does not apply.

(e) This paragraph applies to a person who has become at least 55 years old and first becomes a member of the association after June 30, 1989, and to any other member who has become at least 55 years old and whose annuity is higher when calculated under paragraph (d) in conjunction with this paragraph than when calculated under paragraph (b), in conjunction with paragraph (c). An employee who retires under the formula annuity before the normal retirement age ~~shall~~ must be paid the normal annuity provided in paragraph (d) reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable to the employee if the employee deferred receipt of the annuity and the annuity amount were augmented at an annual rate of three percent compounded annually from the day the annuity begins to accrue until the normal retirement age if the employee became an employee before July 1, 2006, and at 2.5 percent compounded annually if the employee becomes an employee after June 30, 2006. If the member has 30 or more years of service credit, the minimum age requirement of this paragraph does not apply and the reductions and augmentations specified in this paragraph apply to age 62, rather than to normal retirement age.

(f) No retirement annuity is payable to a former employee with a salary that exceeds 95 percent of the governor's salary unless and until the salary figures used in computing the highest five successive years average salary under paragraph (a) have been audited by the Teachers Retirement Association and determined by the executive director to comply with the requirements and limitations of section 354.05, subdivisions 35 and 35a.

EFFECTIVE DATE. This section is effective July 1, 2008.

Sec. 6. Minnesota Statutes 2006, section 354A.011, subdivision 15a, is amended to read:

Subd. 15a. **Normal retirement age.** ~~(a) "Normal retirement age" means age 65 for a person who first became is a member of the coordinated program of the St. Paul Teachers Retirement Fund Association or the new law coordinated program of the Duluth Teachers Retirement Fund Association or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989. For a person who first became a member of the coordinated program of the St. Paul Teachers Retirement Fund Association or the new law coordinated program of the Duluth Teachers Retirement Fund Association after June 30, 1989, normal retirement age means the higher of age 65 or retirement age, as defined in United States Code, title 42, section 416(l), as amended, but not to exceed age 66.~~

~~(b) For a person who is a member of the basic program of the St. Paul Teachers Retirement Fund Association or the old law coordinated program of the Duluth Teachers Retirement Fund Association, normal retirement age means the age at which a teacher becomes eligible for a normal retirement annuity computed upon meeting the age and service requirements specified in the applicable provisions of the articles of incorporation or bylaws of the respective teachers retirement fund association.~~

EFFECTIVE DATE. This section is effective July 1, 2008.

Sec. 7. Minnesota Statutes 2006, section 354A.12, subdivision 1, is amended to read:

Subdivision 1. **Employee contributions.** ~~(a) The contribution required to be paid by each member of a teachers retirement fund association shall not be less than the percentage of total salary specified below for the applicable association and program:~~

Association and Program	Percentage of Total Salary
Duluth Teachers Retirement Association	
old law and new law coordinated programs	5.5 percent
<u>(1) before July 1, 2010</u>	<u>5.50 percent</u>
<u>(2) after June 30, 2010, and before July 1, 2011</u>	<u>5.75 percent</u>
<u>(3) after June 30, 2011, and before July 1, 2012</u>	<u>6.00 percent</u>
<u>(4) after June 30, 2012, and before July 1, 2013</u>	<u>6.25 percent</u>
<u>(5) unless paragraph (b) applies, after June 30, 2013, and before July 1, 2014</u>	<u>6.50 percent</u>
<u>(6) unless paragraph (b) applies, after June 30, 2014, and before July 1, 2015</u>	<u>6.75 percent</u>
<u>(7) unless paragraph (b) applies, after June 30, 2015</u>	<u>7.00 percent</u>
St. Paul Teachers Retirement Association	
basic program	8 percent
coordinated program	5.5 percent

<u>(1) before July 1, 2010</u>	<u>5.50 percent</u>
<u>(2) after June 30, 2010, and before July 1, 2011</u>	<u>5.75 percent</u>
<u>(3) after June 30, 2011, and before July 1, 2012</u>	<u>6.00 percent</u>
<u>(4) after June 30, 2012, and before July 1, 2013</u>	<u>6.25 percent</u>
<u>(5) unless paragraph (b) applies, after June 30, 2013, and before July 1, 2014</u>	<u>6.50 percent</u>
<u>(6) unless paragraph (b) applies, after June 30, 2014, and before July 1, 2015</u>	<u>6.75 percent</u>
<u>(7) unless paragraph (b) applies, after June 30, 2015</u>	<u>7.00 percent</u>

(b) After July 1, 2012, a scheduled contribution increase under paragraph (a), clause (5), (6), or (7), is suspended if the most recent actuarial valuation prepared under section 356.215 indicates that there is no contribution deficiency when the total employee contributions, employer contributions under subdivision 3, and direct state aid are compared to the total financial requirements of the retirement plan.

(c) Contributions shall be made by deduction from salary and must be remitted directly to the respective teachers retirement fund association at least once each month.

EFFECTIVE DATE. This section is effective July 1, 2008.

Sec. 8. Minnesota Statutes 2006, section 354A.12, subdivision 2a, is amended to read:

Subd. 2a. **Employer regular and additional contribution rates.** (a) The employing units shall make the following employer contributions to teachers retirement fund associations:

(1) for any coordinated member of a teachers retirement fund association in a city of the first class, the employing unit shall pay the employer Social Security taxes in accordance with section 355.46, subdivision 3, clause (b);

(2) for any coordinated member of one of the following teachers retirement fund associations in a city of the first class, the employing unit shall make a regular employer contribution to the respective retirement fund association in an amount equal to the designated percentage of the salary of the coordinated member as provided below:

Duluth Teachers Retirement Fund Association	4.50 percent
<u>(A) before July 1, 2010</u>	<u>4.50 percent</u>
<u>(B) after June 30, 2010, and before July 1, 2011</u>	<u>4.75 percent</u>
<u>(C) after June 30, 2011, and before July 1, 2012</u>	<u>5.00 percent</u>
<u>(D) after June 30, 2012, and before July 1, 2013</u>	<u>5.25 percent</u>

<u>(E) unless clause (3) applies, after June 30, 2013, and before July 1, 2014</u>	<u>5.50 percent</u>
<u>(F) unless clause (3) applies, after June 30, 2014, and before July 1, 2015</u>	<u>5.75 percent</u>
<u>(G) unless clause (3) applies, after June 30, 2015</u>	<u>6.00 percent</u>
St. Paul Teachers Retirement Fund Association	4.50 percent
<u>(H) before July 1, 2010</u>	<u>4.50 percent</u>
<u>(I) after June 30, 2010, and before July 1, 2011</u>	<u>4.75 percent</u>
<u>(J) after June 30, 2011, and before July 1, 2012</u>	<u>5.00 percent</u>
<u>(K) after June 30, 2012, and before July 1, 2013</u>	<u>5.25 percent</u>
<u>(L) unless clause (3) applies, after June 30, 2013, and before July 1, 2014</u>	<u>5.50 percent</u>
<u>(M) unless clause (3) applies, after June 30, 2014, and before July 1, 2015</u>	<u>5.75 percent</u>
<u>(N) unless clause (3) applies, after June 30, 2015</u>	<u>6.00 percent</u>

(3) After July 1, 2012, a scheduled contribution increase under paragraph (a), clause (2), item (E), (F), (G), (L), (M), or (N), is suspended if the most recent actuarial valuation prepared under section 356.215 indicates that there is no contribution deficiency when the total employee contributions, employer contributions under subdivision 3, and direct state aid are compared to the total financial requirements of the retirement plan;

~~(3)~~ (4) for any basic member of the St. Paul Teachers Retirement Fund Association, the employing unit shall make a regular employer contribution to the respective retirement fund in an amount equal to 8.00 percent of the salary of the basic member;

(4) ~~(5)~~ for a basic member of the St. Paul Teachers Retirement Fund Association, the employing unit shall make an additional employer contribution to the respective fund in an amount equal to 3.64 percent of the salary of the basic member;

~~(5)~~ ~~(6)~~ for a coordinated member of a teachers retirement fund association in a city of the first class, the employing unit shall make an additional employer contribution to the respective fund in an amount equal to the applicable percentage of the coordinated member's salary, as provided below:

Duluth Teachers Retirement Fund Association	1.29 percent
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St. Paul Teachers Retirement
Fund Association

July 1, 1993 - June 30, 1994	0.50 percent
July 1, 1994 - June 30, 1995	1.50 percent
July 1, 1997, and thereafter	3.84 percent

(b) The regular and additional employer contributions must be remitted directly to the respective teachers retirement fund association at least once each month. Delinquent amounts are payable with interest under the procedure in subdivision 1a.

(c) Payments of regular and additional employer contributions for school district or technical college employees who are paid from normal operating funds must be made from the appropriate fund of the district or technical college.

EFFECTIVE DATE. This section is effective July 1, 2008.

Sec. 9. Minnesota Statutes 2006, section 354A.31, subdivision 4, is amended to read:

Subd. 4. **Computation of normal coordinated retirement annuity; St. Paul fund.** (a) This subdivision applies to the coordinated program of the St. Paul Teachers Retirement Fund Association.

(b) The normal coordinated retirement annuity is an amount equal to a retiring coordinated member's average salary under section 354A.011, subdivision 7a, multiplied by the retirement annuity formula percentage.

(c) This paragraph, in conjunction with subdivision 6, applies to a person who first became a member or a member in a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, unless paragraph (d), in conjunction with subdivision 7, produces a higher annuity amount, in which case paragraph (d) will apply. The retirement annuity formula percentage for purposes of this paragraph is the percent specified in section 356.315, subdivision 1, per year for each year of coordinated service for the first ten years and the percent specified in section 356.315, subdivision 2, for each year of coordinated service thereafter.

(d) This paragraph applies to a person who has become at least 55 years old and who first becomes a member after June 30, 1989, and to any other member who has become at least 55 years old and whose annuity amount, when calculated under this paragraph and in conjunction with subdivision 7 is higher than it is when calculated under paragraph (c), in conjunction with the provisions of subdivision 6. The retirement annuity formula percentage for purposes of this paragraph is the percent specified in section 356.315, subdivision 2, for each year of coordinated service before July 1, 2008, and by the percent specified in section 356.315, subdivision 2c, for each year of service rendered after June 30, 2008. If the member has 30 or more years of service credit, the minimum age requirement of this paragraph does not apply.

EFFECTIVE DATE. This section is effective July 1, 2008.

Sec. 10. Minnesota Statutes 2006, section 354A.31, subdivision 4a, is amended to read:

Subd. 4a. **Computation of the normal coordinated retirement annuity; Duluth fund.** (a) This subdivision applies to the new law coordinated program of the Duluth Teachers Retirement Fund Association.

(b) The normal coordinated retirement annuity is an amount equal to a retiring coordinated member's average salary under section 354A.011, subdivision 7a, multiplied by the retirement annuity formula percentage.

(c) This paragraph, in conjunction with subdivision 6, applies to a person who first became a member or a member in a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, unless paragraph (d), in conjunction with subdivision 7, produces a higher annuity amount, in which case paragraph (d) applies. The retirement annuity formula percentage for purposes of this paragraph is the percent specified in section 356.315, subdivision 1, per year for each year of coordinated service for the first ten years and the percent specified in section 356.315, subdivision 2, for each subsequent year of coordinated service.

(d) This paragraph applies to a person who is at least 55 years old and who first becomes a member after June 30, 1989, and to any other member who is at least 55 years old and whose annuity amount, when calculated under this paragraph and in conjunction with subdivision 7, is higher than it is when calculated under paragraph (c) in conjunction with subdivision 6. The retirement annuity formula percentage for purposes of this paragraph is the percent specified in section 356.315, subdivision 2, for each year of coordinated service before July 1, 2008, and by the percent specified in section 356.315, subdivision 2c, for each year of service rendered after June 30, 2008. If the member has 30 or more years of service credit, the minimum age requirement of this paragraph does not apply.

EFFECTIVE DATE. This section is effective July 1, 2008.

Sec. 11. Minnesota Statutes 2006, section 354A.31, subdivision 7, is amended to read:

Subd. 7. **Actuarial reduction for early retirement.** This subdivision applies to a person who has become at least 55 years old and first becomes a coordinated member after June 30, 1989, and to any other coordinated member who has become at least 55 years old and whose annuity is higher when calculated using the retirement annuity formula percentage in subdivision 4, paragraph (d), and subdivision 4a, paragraph (d), in conjunction with this subdivision than when calculated under subdivision 4, paragraph (c), or subdivision 4a, paragraph (c), in conjunction with subdivision 6. A coordinated member who retires before the ~~full benefit~~ normal retirement age ~~shall~~ must be paid the retirement annuity calculated using the retirement annuity formula percentage in subdivision 4, paragraph (d), or subdivision 4a, paragraph (d), reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable to the member if the member deferred receipt of the annuity and the annuity amount were augmented at an annual rate of three percent compounded annually from the day the annuity begins to accrue until the normal retirement age if the employee became an employee before July 1, 2006, and at 2.5 percent compounded annually from the day the annuity begins to accrue until the normal retirement age if the person initially becomes a teacher after June 30, 2006. If the member has 30 or more years of service credit, the minimum age requirement of this paragraph does not apply and the reductions and augmentations specified in this paragraph apply to age 62, rather than to normal retirement age.

EFFECTIVE DATE. This section is effective July 1, 2008.

Sec. 12. Minnesota Statutes 2006, section 356.315, is amended by adding a subdivision to read:

Subd. 2c. **Certain coordinated members.** The applicable benefit accrual rate is 2.0 percent.

EFFECTIVE DATE. This section is effective July 1, 2008."

Renumber the articles in sequence

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Thissen amendment and the roll was called. There were 82 yeas and 51 nays as follows:

Those who voted in the affirmative were:

Abeler	Davnie	Hamilton	Lenczewski	Paulsen	Solberg
Anderson, S.	Dean	Hansen	Lesch	Paymar	Thao
Anzelc	DeLaForest	Haws	Lillie	Peterson, A.	Thissen
Atkins	Demmer	Heidgerken	Magnus	Peterson, S.	Tillberry
Benson	Dettmer	Hoppe	Mahoney	Rukavina	Tingelstad
Berns	Dittrich	Hornstein	Marquart	Ruth	Urdahl
Bigham	Dominguez	Hosch	Masin	Ruud	Walker
Bly	Doty	Howes	Morrow	Sailer	Ward
Brod	Eken	Juhnke	Mullery	Seifert	Wardlow
Brown	Faust	Kalin	Nornes	Sertich	Westrom
Brynaert	Finstad	Koenen	Norton	Simon	Zellers
Bunn	Fritz	Kranz	Olin	Simpson	Spk. Kelliher
Carlson	Gardner	Laine	Otremba	Slawik	
Cornish	Garofalo	Lanning	Ozment	Slocum	

Those who voted in the negative were:

Anderson, B.	Gottwalt	Huntley	Madore	Olson	Swails
Beard	Greiling	Jaros	Mariani	Pelowski	Tschumper
Buesgens	Gunther	Johnson	McFarlane	Peppin	Wagenius
Clark	Hackbarth	Kahn	McNamara	Peterson, N.	Welti
Drazkowski	Hausman	Knuth	Moe	Poppe	Winkler
Eastlund	Hilstrom	Kohls	Morgan	Scalze	Wollschlager
Emmer	Hilty	Liebling	Murphy, E.	Severson	
Erhardt	Holberg	Lieder	Murphy, M.	Shimanski	
Erickson	Hortman	Loeffler	Nelson	Smith	

The motion prevailed and the amendment was adopted.

Sertich moved to amend H. F. No. 3082, the third engrossment, as amended, as follows:

Page 13, line 6, before "The" insert "(a)"

Page 13, line 7, after "dissolved" insert "for the retirement plans administered by the Minnesota State Retirement System and the Public Employees Retirement Association"

Page 13, after line 12, insert:

"(b) The postretirement investment fund established in section 11A.18 continues for the Teachers Retirement Association even if a composite funded ratio condition set forth in paragraph (a) occurs."

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

Severson moved to amend H. F. No. 3082, the third engrossment, as amended, as follows:

Page 141, after line 34, insert:

"ARTICLE 19

POSTRETIREMENT ADJUSTMENT MAXIMUMS

Section 1. Minnesota Statutes 2006, section 354A.27, is amended by adding a subdivision to read:

Subd. 7. **Maximum postretirement adjustment.** Notwithstanding any provision of subdivision 1, 5, or 6, to the contrary, an annual postretirement adjustment under this section may not exceed the percentage amount under section 11A.18, subdivision 9, paragraph (3), clause (2), or section 11A.181, subdivision 3, paragraph (a), clause (a).

Sec. 2. Minnesota Statutes 2006, section 354A.29, is amended by adding a subdivision to read:

Subd. 5a. **Maximum postretirement adjustment.** Notwithstanding any provision of subdivision 3, 4, or 5, or Laws 2007, chapter 134, article 7, section 1, to the contrary, an annual postretirement adjustment under this section or under Laws 2007, chapter 134, article 7, section 1, may not exceed the percentage amount under section 11A.18, subdivision 9, paragraph (3), clause (2), or section 11A.181, subdivision 3, paragraph (a), clause (a)."

Renumber the articles in sequence

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Severson amendment and the roll was called. There were 7 yeas and 125 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Emmer	Olson	Severson
Buesgens	Hackbarth	Seifert	

Those who voted in the negative were:

Abeler	Clark	Erickson	Hilstrom	Knuth	Mahoney
Anderson, S.	Cornish	Faust	Hilty	Koenen	Mariani
Anzelc	Davnie	Finstad	Holberg	Kohls	Marquart
Atkins	Dean	Fritz	Hoppe	Kranz	Masin
Beard	DeLaForest	Gardner	Hornstein	Laine	McFarlane
Benson	Demmer	Garofalo	Hortman	Lanning	McNamara
Berns	Dettmer	Gottwalt	Hosch	Lenczewski	Moe
Bigham	Dittrich	Greiling	Howes	Lesch	Morgan
Bly	Dominguez	Gunther	Huntley	Liebling	Morrow
Brod	Doty	Hamilton	Jaros	Lieder	Mullery
Brown	Drazkowski	Hansen	Johnson	Lillie	Murphy, E.
Brynaert	Eastlund	Hausman	Juhnke	Loeffler	Murphy, M.
Bunn	Eken	Haws	Kahn	Madore	Nelson
Carlson	Erhardt	Heidgerken	Kalin	Magnus	Nornes

Norton	Peppin	Sailer	Slocum	Tingelstad	Welti
Olin	Peterson, A.	Scalze	Smith	Tschumper	Westrom
Otremba	Peterson, N.	Sertich	Solberg	Urdahl	Winkler
Ozment	Peterson, S.	Shimanski	Swails	Wagenius	Wollschlager
Paulsen	Poppe	Simon	Thao	Walker	Zellers
Paymar	Rukavina	Simpson	Thissen	Ward	Spk. Kelliher
Pelowski	Ruud	Slawik	Tillberry	Wardlow	

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

Emmer offered an amendment to H. F. No. 3082, the third engrossment, as amended.

POINT OF ORDER

Kahn raised a point of order pursuant to rule 3.21 that the Emmer amendment was not in order. Speaker pro tempore Juhnke ruled the point of order well taken and the Emmer amendment out of order.

Garofalo moved to amend H. F. No. 3082, the third engrossment, as amended, as follows:

Page 128, line 23, before the period, insert "and may not be used for political purposes"

Johnson moved to amend the Garofalo amendment to H. F. No. 3082, the third engrossment, as amended, as follows:

Page 1, line 2, after "for" insert "partisan"

The motion prevailed and the amendment to the amendment was adopted.

The question recurred on the Garofalo amendment, as amended, to H. F. No. 3082, the third engrossment, as amended. The motion prevailed and the amendment, as amended, was adopted.

Pursuant to rule 1.50, Sertich moved that the House be allowed to continue in session after 12:00 midnight. The motion prevailed.

Hackbarth moved to amend H. F. No. 3082, the third engrossment, as amended, as follows:

Page 125, delete section 12

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 Hackbarth amendment and the roll was called. There were 44 yeas and 89 nays as follows:

Those who voted in the affirmative were:

Abeler	Dean	Finstad	Hoppe	Paulsen	Tingelstad
Anderson, B.	DeLaForest	Gardner	Kohls	Peppin	Urdahl
Anderson, S.	Demmer	Garofalo	Lanning	Peterson, N.	Wardlow
Beard	Dettmer	Gottwalt	Magnus	Ruth	Zellers
Brod	Drazkowski	Gunther	McNamara	Seifert	
Brown	Eastlund	Hackbarth	Nornes	Severson	
Buesgens	Emmer	Hamilton	Olson	Shimanski	
Cornish	Erickson	Heidgerken	Ozment	Simpson	

Those who voted in the negative were:

Anzelc	Erhardt	Jaros	Madore	Otremba	Solberg
Atkins	Faust	Johnson	Mahoney	Paymar	Swails
Benson	Fritz	Juhnke	Mariani	Pelowski	Thao
Berns	Greiling	Kahn	Marquart	Peterson, A.	Thissen
Bigham	Hansen	Kalin	Masin	Peterson, S.	Tillberry
Bly	Hausman	Knuth	McFarlane	Poppe	Tschumper
Brynaert	Haws	Koenen	Moe	Rukavina	Wagenius
Bunn	Hilstrom	Kranz	Morgan	Ruud	Walker
Carlson	Hilty	Laine	Morrow	Sailer	Ward
Clark	Holberg	Lenczewski	Mullery	Scalze	Walti
Davnie	Hornstein	Lesch	Murphy, E.	Sertich	Westrom
Dittrich	Hortman	Liebling	Murphy, M.	Simon	Winkler
Dominguez	Hosch	Lieder	Nelson	Slawik	Wollschlager
Doty	Howes	Lillie	Norton	Slocum	Spk. Kelliher
Eken	Huntley	Loeffler	Olin	Smith	

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

Wardlow and Urdahl moved to amend H. F. No. 3082, the third engrossment, as amended, as follows:

Page 13, delete article 2

Renumber the articles in sequence

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Wardlow and Urdahl amendment and the roll was called. There were 19 yeas and 114 nays as follows:

Those who voted in the affirmative were:

Abeler	Dean	Finstad	McNamara	Shimanski
Anderson, B.	Dettmer	Hackbarth	Olson	Urdahl
Brod	Drazkowski	Heidgerken	Paulsen	Wardlow
Buesgens	Emmer	Kranz	Seifert	

Those who voted in the negative were:

Anderson, S.	Doty	Hoppe	Lieder	Olin	Slawik
Anzelc	Eastlund	Hornstein	Lillie	Otremba	Slocum
Atkins	Eken	Hortman	Loeffler	Ozment	Smith
Beard	Erhardt	Hosch	Madore	Paymar	Solberg
Benson	Erickson	Howes	Magnus	Pelowski	Swails
Berns	Faust	Huntley	Mahoney	Peppin	Thao
Bigham	Fritz	Jaros	Mariani	Peterson, A.	Thissen
Bly	Gardner	Johnson	Marquart	Peterson, N.	Tillberry
Brown	Garofalo	Juhnke	Masin	Peterson, S.	Tingelstad
Brynaert	Gottwalt	Kahn	McFarlane	Poppe	Tschumper
Bunn	Greiling	Kalin	Moe	Rukavina	Wagenius
Carlson	Gunther	Knuth	Morgan	Ruth	Walker
Clark	Hamilton	Koenen	Morrow	Ruud	Ward
Cornish	Hansen	Kohls	Mullery	Sailer	Welti
Davnie	Hausman	Laine	Murphy, E.	Scalze	Westrom
DeLaForest	Haws	Lanning	Murphy, M.	Sertich	Winkler
Demmer	Hilstrom	Lenczewski	Nelson	Severson	Wollschlager
Dittrich	Hilty	Lesch	Nornes	Simon	Zellers
Dominguez	Holberg	Liebling	Norton	Simpson	Spk. Kelliher

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

Emmer moved to amend H. F. No. 3082, the third engrossment, as amended, as follows:

Page 105, line 29, delete "[423A.021]" and insert "[423C.061]"

Page 105, line 30, delete "a salaried" and insert "the Minneapolis" and delete "in"

Page 105, line 31, delete everything before the comma

Page 106, line 17, delete "a salaried" and insert "the Minneapolis" and delete "in" and insert ", if it is"

Page 106, line 18, delete everything before "no" and delete "is"

Page 106, after line 30, insert:

"EFFECTIVE DATE. This section is effective the day after the governing body of the city of Minneapolis and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021."

A roll call was requested and properly seconded.

The question was taken on the Emmer amendment and the roll was called. There were 10 yeas and 122 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Drazkowski	Finstad	Olson	Severson
Buesgens	Emmer	Garofalo	Peppin	Wardlow

Those who voted in the negative were:

Abeler	Dittrich	Holberg	Lieder	Otremba	Solberg
Anderson, S.	Dominguez	Hoppe	Lillie	Paulsen	Swails
Anzelc	Doty	Hornstein	Loeffler	Paymar	Thao
Atkins	Eastlund	Hortman	Madore	Pelowski	Thissen
Beard	Eken	Hosch	Magnus	Peterson, A.	Tillberry
Benson	Erhardt	Howes	Mahoney	Peterson, N.	Tingelstad
Berns	Erickson	Huntley	Mariani	Peterson, S.	Tschumper
Bigham	Faust	Jaros	Marquart	Poppe	Urdahl
Bly	Fritz	Johnson	Masin	Rukavina	Wagenius
Brod	Gardner	Juhnke	McFarlane	Ruth	Walker
Brown	Gottwalt	Kahn	McNamara	Ruud	Ward
Brynaert	Greiling	Kalin	Moe	Sailer	Walti
Bunn	Gunther	Knuth	Morgan	Scalze	Westrom
Carlson	Hackbarth	Koenen	Morrow	Seifert	Winkler
Clark	Hamilton	Kohls	Mullery	Sertich	Wollschlager
Cornish	Hansen	Kranz	Murphy, E.	Shimanski	Zellers
Davnie	Hausman	Laine	Murphy, M.	Simon	Spk. Kelliher
Dean	Haws	Lanning	Nelson	Simpson	
DeLaForest	Heidgerken	Lenczewski	Nornes	Slawik	
Demmer	Hilstrom	Lesch	Norton	Slocum	
Dettmer	Hilty	Liebling	Olin	Smith	

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

H. F. No. 3082, A bill for an act relating to retirement; various retirement plans; adding two employment positions to the correctional state employees retirement plan; including certain departments of the Rice Memorial Hospital in Willmar and the Worthington Regional Hospital in privatized public employee retirement coverage; providing for the potential dissolution of the Minnesota Post Retirement Investment Fund; increasing teacher retirement plan reemployed annuitant earnings limitations; temporarily exempting Metropolitan Airports Commission police officers from reemployed annuitant earnings limits; mandating joint and survivor optional annuities rather than single life annuities as basic annuity form; making various changes in retirement plan administrative provisions; clarifying general state employee retirement plan alternative coverage elections by certain unclassified state employees retirement program participants; clarifying direct state aid for the teacher retirement associations; clarifying the handling of unclaimed retirement accounts in the individual retirement account plan; providing for a study of certain Minnesota State Colleges and Universities System tenure track faculty members; modifying the manner in which official actuarial work for public pension plans is performed; allowing pension plans greater latitude in setting salary and payroll assumptions; extending amortization target dates for various retirement plans; making the number and identity of tax-sheltered annuity vendors a mandatory bargaining item for school districts and their employees; allowing a certain firefighter relief association certain benefit increases; providing for certain teacher retirement benefit and contribution increases; allowing security broker-dealers to directly hold local pension plan assets; increasing upmost flexible service pension maximum amounts for volunteer firefighters; creating a voluntary statewide volunteer firefighter retirement plan advisory board within the Public Employees Retirement Association; allowing various retirement plans to accept labor union retired member dues deduction authorizations; authorizing various prior service credit purchases; authorizing certain service credit and coverage transfers; authorizing a disability benefit application to be rescinded; authorizing a retirement coverage termination; providing an additional benefit to certain injured Minneapolis bomb squad officers; allowing certain Independent School District No. 625 school board members to make back defined contribution retirement plan contributions; revising post-2009 additional amortization state aid allocations; modifying PERA-P&F duty disability benefit amounts; authorizing a PERA prior military service credit purchase; revising the administrative duties of the board and the executive director of the Minnesota State Retirement System; increasing pension commission membership; appropriating money; amending Minnesota Statutes 2006, sections 3.85, subdivision 3; 6.67; 11A.18, subdivision 9, by adding subdivisions; 16A.055, subdivision 5; 43A.346, subdivisions 4, 5, 6, 7; 69.011, subdivision 1; 123B.02,

subdivision 15; 127A.50, subdivision 1; 352.03, subdivisions 4, 5; 352.12, subdivision 2; 352.22, subdivision 10; 352.931, subdivision 1; 352.97; 352.98, subdivisions 1, 2, 3, 4, 5; 352D.075, subdivision 2a; 353.01, subdivisions 10, 11a, by adding a subdivision; 353.27, by adding a subdivision; 353.30, subdivision 3; 353.33, subdivision 5; 353.64, subdivision 11; 353.656, subdivision 2; 353D.05, subdivision 2; 353D.12, subdivision 4; 353E.07, subdivision 7; 354.05, subdivisions 37, 38; 354.33, subdivision 5; 354.42, subdivisions 2, 3; 354.44, subdivision 5; 354A.011, subdivision 15a; 354A.12, subdivisions 1, 2a, 3a; 354A.31, subdivisions 3, 4, 4a, 7; 354B.20, by adding a subdivision; 354B.25, subdivision 5, by adding a subdivision; 354C.165; 356.20, subdivisions 1, 2, 3, 4, 4a; 356.214, subdivisions 1, 3, by adding a subdivision; 356.215, subdivisions 1, 2, 3, 8, 11, 18; 356.24, subdivision 1; 356.315, by adding a subdivision; 356.41; 356.46, as amended; 356.47, subdivision 3; 356.551, subdivision 2; 356.611, subdivision 2, by adding a subdivision; 356A.06, subdivisions 1, 7, 8b; 356B.10, subdivision 3; 363A.36, subdivision 1; 383B.914, subdivision 7; 423A.02, subdivision 1b; 424A.001, subdivision 6, by adding a subdivision; 424A.02, subdivisions 3, 7, 9; 424A.05, subdivision 3; 518.003, subdivision 8; Minnesota Statutes 2007 Supplement, sections 43A.346, subdivisions 1, 2; 352.01, subdivision 2a; 352.017, subdivision 2; 352.91, subdivision 3d; 352.955, subdivisions 3, 5; 352D.02, subdivisions 1, 3; 353.01, subdivision 2b; 353.0161, subdivision 2; 353.27, subdivision 14; 353.32, subdivision 1a; 353.656, subdivision 1; 353.657, subdivision 2a; 353F.02, subdivision 4; 354.096, subdivision 2; 354.44, subdivision 6; 354.72, subdivision 2; 354A.12, subdivision 3c; 354C.12, subdivision 4; 356.96, subdivision 1; 422A.06, subdivision 8; Laws 2002, chapter 392, article 2, section 4; Laws 2006, chapter 271, article 5, section 5; proposing coding for new law in Minnesota Statutes, chapters 11A; 352; 353D; 353F; 354; 354C; 356; 423A; repealing Minnesota Statutes 2006, sections 352.96; 354.44, subdivision 6a; 354.465; 354.51, subdivision 4; 354.55, subdivisions 2, 3, 6, 12, 15; 354A.091, subdivisions 1a, 1b; 354A.12, subdivision 3a; 355.629; 356.214, subdivision 2; 356.215, subdivision 2a; Minnesota Statutes 2007 Supplement, section 354A.12, subdivisions 3b, 3c; Laws 1965, chapter 592, sections 3, as amended; 4, as amended; Laws 1967, chapter 575, sections 2, as amended; 3; 4; Laws 1969, chapter 352, section 1, subdivisions 3, 4, 5, 6; Laws 1969, chapter 526, sections 3; 4; 5, as amended; 7, as amended; Laws 1971, chapter 140, sections 2, as amended; 3, as amended; 4, as amended; 5, as amended; Laws 1971, chapter 214, section 1, subdivisions 1, 2, 3, 4, 5; Laws 1973, chapter 304, section 1, subdivisions 3, 4, 5, 6, 7, 8, 9; Laws 1973, chapter 472, section 1, as amended; Laws 1975, chapter 185, section 1; Laws 1985, chapter 261, section 37, as amended; Laws 1991, chapter 125, section 1; Laws 1993, chapter 244, article 4, section 1; Laws 2005, First Special Session chapter 8, article 1, section 23; Minnesota Rules, parts 7905.0100; 7905.0200; 7905.0300; 7905.0400; 7905.0500; 7905.0600; 7905.0700; 7905.0800; 7905.0900; 7905.1000; 7905.1100; 7905.1200; 7905.1300; 7905.1400; 7905.1500; 7905.1600; 7905.1700; 7905.1800; 7905.1900; 7905.2000; 7905.2100; 7905.2200; 7905.2300; 7905.2400; 7905.2450; 7905.2500; 7905.2560; 7905.2600; 7905.2700; 7905.2800; 7905.2900.

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.

Pursuant to rule 2.05, Speaker pro tempore Juhnke excused Buesgens and Erickson from voting on final passage of H. F. No. 3082, the third engrossment, as amended.

There were 108 yeas and 20 nays as follows:

Those who voted in the affirmative were:

Anzelc	Brown	Davnie	Doty	Gardner	Hansen
Atkins	Brynaert	DeLaForest	Eastlund	Gottwalt	Hausman
Beard	Bunn	Demmer	Eken	Greiling	Haws
Benson	Carlson	Dill	Erhardt	Gunther	Hilstrom
Bigham	Clark	Dittrich	Faust	Hackbarth	Hilty
Bly	Cornish	Dominguez	Fritz	Hamilton	Holberg

Hoppe	Koenen	Mariani	Nornes	Sertich	Tillberry
Hornstein	Kranz	Marquart	Norton	Severson	Tingelstad
Hortman	Laine	Masin	Olin	Shimanski	Tschumper
Hosch	Lanning	McFarlane	Pelowski	Simon	Wagenius
Howes	Lesch	McNamara	Peterson, A.	Simpson	Walker
Huntley	Liebling	Moe	Peterson, S.	Slawik	Ward
Jaros	Lieder	Morgan	Poppe	Slocum	Wardlow
Johnson	Lillie	Morrow	Rukavina	Smith	Welti
Juhnke	Loeffler	Mullery	Ruth	Solberg	Winkler
Kahn	Madore	Murphy, E.	Ruud	Swails	Wollschlager
Kalin	Magnus	Murphy, M.	Sailer	Thao	Zellers
Knuth	Mahoney	Nelson	Scalze	Thissen	Spk. Kelliher

Those who voted in the negative were:

Abeler	Brod	Emmer	Kohls	Peterson, N.
Anderson, B.	Dean	Finstad	Olson	Seifert
Anderson, S.	Dettmer	Garofalo	Paulsen	Urdahl
Berns	Drazkowski	Heidgerken	Peppin	Westrom

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

Sertich moved 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.

CALENDAR FOR THE DAY

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

ADJOURNMENT

Sertich moved that when the House adjourns today it adjourn until 8:30 a.m., Tuesday, May 13, 2008. The motion prevailed.

Sertich moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 8:30 a.m., Tuesday, May 13, 2008.

ALBIN A. MATHIOWETZ, Chief Clerk, House of Representatives