

STATE OF MINNESOTA

EIGHTY-SIXTH SESSION — 2009

 THIRTY-FIRST DAY

SAINT PAUL, MINNESOTA, MONDAY, APRIL 6, 2009

The House of Representatives convened at 1:00 p.m. and was called to order by Margaret Anderson Kelliher, Speaker of the House.

Prayer was offered by the Reverend Paul Nash, Director, Association of Free Lutheran Congregations Home Missions, Plymouth, 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	Hayden	Lesch	Norton	Slawik
Anderson, B.	Dill	Hilstrom	Liebling	Obermueller	Slocum
Anderson, P.	Dittrich	Hilty	Lieder	Olin	Smith
Anderson, S.	Doepke	Holberg	Lillie	Otremba	Solberg
Anzenc	Doty	Hoppe	Loeffler	Paymar	Sterner
Atkins	Downey	Hortman	Loon	Pelowski	Swails
Beard	Drazkowski	Hosch	Mack	Peppin	Thao
Benson	Eastlund	Howes	Magnus	Persell	Thissen
Bigham	Eken	Huntley	Mahoney	Peterson	Tillberry
Bly	Emmer	Jackson	Mariani	Poppe	Torkelson
Brod	Falk	Johnson	Marquart	Reinert	Urdahl
Brown	Faust	Juhnke	Masin	Rosenthal	Wagenius
Brynaert	Fritz	Kahn	McFarlane	Rukavina	Ward
Buesgens	Gardner	Kalin	McNamara	Ruud	Welti
Bunn	Garofalo	Kath	Morgan	Sailer	Westrom
Carlson	Gottwalt	Kelly	Morrow	Sanders	Winkler
Champion	Greiling	Kiffmeyer	Mullery	Scalze	Zellers
Clark	Gunther	Knuth	Murdock	Scott	Spk. Kelliher
Cornish	Hackbarth	Koenen	Murphy, E.	Seifert	
Davids	Hamilton	Kohls	Murphy, M.	Sertich	
Davnie	Hansen	Laine	Nelson	Severson	
Dean	Hausman	Lanning	Newton	Shimanski	
Demmer	Haws	Lenczewski	Nornes	Simon	

A quorum was present.

Hornstein was excused.

The Chief Clerk proceeded to read the Journals of the preceding days. Mack moved that further reading of the Journals be dispensed with and that the Journals be approved as corrected by the Chief Clerk. The motion prevailed.

REPORTS OF CHIEF CLERK

S. F. No. 764 and H. F. No. 456, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Johnson moved that S. F. No. 764 be substituted for H. F. No. 456 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 811 and H. F. No. 1040, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Shimanski moved that S. F. No. 811 be substituted for H. F. No. 1040 and that the House File be indefinitely postponed. The motion prevailed.

REPORTS OF STANDING COMMITTEES AND DIVISIONS

Thissen from the Committee on Health Care and Human Services Policy and Oversight to which was referred:

H. F. No. 200, A bill for an act relating to health care; prohibiting the use of a broker for medical transportation services; allowing county social workers to make level of need determinations; renaming special transportation services; modifying medical transportation requirements; amending Minnesota Statutes 2008, sections 256B.04, subdivision 14a; 256B.0625, subdivision 17, by adding a subdivision.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 256B.04, subdivision 14a, is amended to read:

Subd. 14a. **Level of need determination.** Nonemergency medical transportation level of need determinations must be performed by a physician, a registered nurse working under direct supervision of a physician, a physician's assistant, a nurse practitioner, a licensed practical nurse, or a discharge planner. Nonemergency medical transportation level of need determinations must not be performed more than semiannually on any individual, unless the individual's circumstances have sufficiently changed so as to require a new level of need determination. Nonemergency medical transportation level of need determinations must not be performed more than every seven years on an individual, if a physician certifies that the individual's medical condition that requires the use of nonemergency medical transportation is permanent and is not likely to improve, and this certification by the physician is confirmed by a level of need determination. Individuals residing in licensed nursing facilities are exempt from a level of need determination and are eligible for special transportation services until the individual no longer resides in a licensed nursing facility. If a person authorized by this subdivision to perform a level of need determination determines that an individual requires stretcher transportation, the individual is presumed to maintain that level of need until otherwise determined by a person authorized to perform a level of need determination, or for six months, whichever is sooner.

Sec. 2. Minnesota Statutes 2008, section 256B.0625, subdivision 17, is amended to read:

Subd. 17. **Transportation costs.** (a) For purposes of this subdivision, the following terms have the meanings given unless otherwise provided for in this subdivision:

(1) "special transportation" means nonemergency medical transportation to or from a covered service that is provided to a recipient who has a physical or mental impairment that prohibits the recipient from independently and safely accessing and using a bus, taxi, other commercial transportation, or private automobile;

(2) "access transportation service" means curb-to-curb nonemergency medical transportation to or from a covered service that is provided to a recipient without a physical or mental impairment, but who requires transportation services to be able to access a covered service, and who is unable to do so by bus or private automobile; and

(3) "medical transportation" means the transport of a recipient to obtain a covered service or the transport of a recipient after the covered service is provided.

(b) Medical assistance covers medical transportation costs incurred solely for obtaining emergency medical care or transportation costs incurred by eligible persons in obtaining emergency or nonemergency medical care when paid directly to an ambulance company, common carrier, or other recognized providers of transportation services. Medical transportation must be provided by:

(1) an ambulance, as defined in section 144E.001, subdivision 2;

(2) special transportation;

(3) access transportation; or

(4) other common carrier including, but not limited to, bus, taxi, other commercial carrier, or private automobile.

(b) Medical assistance covers special transportation, as defined in Minnesota Rules, part 9505.0315, subpart 1, item F, if the recipient has a physical or mental impairment that would prohibit the recipient from safely accessing and using a bus, taxi, other commercial transportation, or private automobile.

(c) "Rural urban commuting area" or "RUCA" means an area determined to be urban, rural, or super rural by the Centers for Medicare and Medicaid Services for purposes of Medicare reimbursement of ambulance services.

The commissioner may use an order by the recipient's attending physician to certify that the recipient requires special transportation services. Special transportation ~~includes~~ providers shall perform driver-assisted service to services for eligible individuals. Driver-assisted service includes passenger pickup at and return to the individual's residence or place of business, assistance with admittance of the individual to the medical facility, and assistance in passenger securement or in securing of wheelchairs or stretchers in the vehicle. Special transportation providers must obtain written documentation from the health care service provider who is serving the recipient being transported, identifying the time that the recipient arrived. Special transportation and access transportation providers may not bill for separate base rates for the continuation of a trip beyond the original destination. Special transportation and access transportation providers must take recipients to the nearest appropriate health care provider, using the most direct route available as determined by a commercially available software program approved by the commissioner and designated by the provider as the program to be used to determine the route and mileage for all trips. The ~~maximum~~ minimum medical assistance reimbursement rates for ~~special nonemergency~~ medical transportation services are:

(1) for areas defined under RUCA as urban:

(+) (i) \$17 for the base rate and \$1.35 per mile for special transportation services to eligible persons who need a wheelchair-accessible van;

~~(2)~~ (ii) \$11.50 for the base rate and \$1.30 per mile for special transportation services to eligible persons who do not need a wheelchair-accessible van; and

(iii) \$10 for the base rate and \$1.35 per mile for access transportation services to eligible persons who need a wheelchair-accessible van;

(iv) \$10 for the base rate and \$1.30 per mile for access transportation services to eligible persons who do not need a wheelchair-accessible van;

~~(3)~~ (v) \$60 for the base rate and \$2.40 per mile, and an attendant rate of \$9 per trip, for services to eligible persons who need a stretcher-accessible vehicle; and

(vi) for all special transportation and access transportation services for a trip equal to or exceeding 51 miles, the provider shall receive mileage reimbursement for each mile equal to or exceeding 51 miles at 125 percent of the respective mileage rates in this clause;

(2) the base rates for special transportation services and access transportation in areas defined under RUCA as rural, shall be equal to the reimbursement rate established in clause (1) plus one percent;

(3) the base rate for special transportation and access transportation services in areas defined under RUCA as super rural shall be equal to the reimbursement rate established in clause (1) plus 22.6 percent; and

(4) for special transportation and access transportation services defined under RUCA as rural and super rural areas;

(i) for a trip equal to 17 miles or less, mileage reimbursement shall be equal to 150 percent of the respective mileage rate in clause (1);

(ii) for a trip between 18 and 50 miles, mileage reimbursement shall be equal to 100 percent of the respective mileage rate in clause (1); and

(iii) for a trip equal to or exceeding 51 miles, mileage reimbursement shall be equal to 125 percent of the respective mileage rate in clause (1), items (i) to (v).

(d) For purposes of reimbursement rates for special transportation and access transportation services under paragraph (c), the recipient's place of residence shall determine whether the urban, rural, or super rural reimbursement rate applies.

(e) For all special transportation and access transportation services, the transportation provider must obtain delivery confirmation of the recipient by the medical provider to whom the recipient is delivered.

Sec. 3. Minnesota Statutes 2008, section 256B.0625, is amended by adding a subdivision to read:

Subd. 17b. **Broker dispatching prohibition.** The commissioner shall not use a broker or coordinator to manage or dispatch nonemergency medical transportation services.

Sec. 4. **REIMBURSEMENT REFORM ACT.**

This act shall be referred to as the "Nonemergency Medical Transportation Reform Act of 2009."

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

The report was adopted.

Pursuant to Joint Rule 2.03 and in accordance with Senate Concurrent Resolution No. 5, H. F. No. 200 was re-referred to the Committee on Rules and Legislative Administration.

Thissen from the Committee on Health Care and Human Services Policy and Oversight to which was referred:

H. F. No. 374, A bill for an act relating to health care; renaming special transportation services; modifying medical transportation requirements; modifying reimbursement; amending Minnesota Statutes 2008, section 256B.0625, subdivision 17.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 256.045, is amended by adding a subdivision to read:

Subd. 3d. **Special requirements regarding medical assistance nonemergency transportation services.** Notwithstanding the provisions of Minnesota Rules, parts 9505.0125, subpart 1, and 9505.0130, subpart 2, a recipient of nonemergency medical transportation services under section 256B.0625, subdivisions 17a to 17f, shall be given a written notice of a denial, reduction, termination, or suspension of those services no later than 30 days before the effective date of the action, and a local agency shall not reduce, suspend, or terminate eligibility for those services when a recipient appeals within 30 days of the agency's mailing of the notice, unless the recipient requests in writing not to receive continued nonemergency medical transportation services while the appeal is pending.

Sec. 2. Minnesota Statutes 2008, section 256B.04, subdivision 14a, is amended to read:

Subd. 14a. **Level of need determination.** (a) Nonemergency medical transportation level of need determinations must be performed by a physician, a registered nurse working under direct supervision of a physician, a physician's assistant, a nurse practitioner, a licensed practical nurse, a county social worker, or a discharge planner, on a form prescribed by the commissioner of human services that is designed to determine the recipient's appropriate level of need for nonemergency medical transportation services.

(b) The prescribed form, when completed by any of the individuals specified in paragraph (a), shall be submitted to commissioner. The completed form shall serve as sufficient evidence of the recipient's level of need for nonemergency medical transportation services, and the recipient shall be eligible to receive transportation services at the level of need determined appropriate by the form. Upon receipt of this form, the commissioner may not reimburse any other person or entity for performing a level of need determination for that recipient at any time sooner than described in this subdivision.

(c) Nonemergency medical transportation level of need determinations must not be performed more than semiannually on any individual, unless the individual's circumstances have sufficiently changed so as to require a new level of need determination. Nonemergency medical transportation level of need determinations must not be

performed more frequently than every seven years on an individual, if a physician certifies that the individual's medical condition that requires the use of nonemergency medical transportation is permanent and is not likely to improve, and this certification by the physician is confirmed by a level of need determination. Individuals residing in licensed nursing facilities are exempt from a level of need determination and are eligible for special transportation services until the individual no longer resides in a licensed nursing facility. If a person authorized by this subdivision to perform a level of need determination determines that an individual requires stretcher transportation, the individual is presumed to maintain that level of need until otherwise determined by a person authorized to perform a level of need determination, or for six months, whichever is sooner.

(d) The form used to determine recipients' level of need under this subdivision shall be developed by the department in consultation with metro special transportation service providers, nonmetro special transportation service providers, and other interested parties. This form must be developed by October 1, 2009.

EFFECTIVE DATE. This section is effective October 1, 2009.

Sec. 3. Minnesota Statutes 2008, section 256B.0625, is amended by adding a subdivision to read:

Subd. 17b. **Medical transportation.** (a) For purposes of this subdivision and subdivisions 17a to 17f, the following definitions apply:

(1) "access transportation service" means curb-to-curb or door-through-door nonemergency medical transportation to or from a covered service that is provided to a recipient without a physical or mental impairment, but who requires transportation services to be able to access a covered service, and who is unable to do so by bus or private automobile;

(2) "curb-to-curb" means access transportation service for recipients who do not require driver-assisted services;

(3) "door-through-door" means access transportation service for recipients who require driver-assisted services to be able to safely move from inside of the main portion of the building at the recipients' pickup, and into the main portion of the building at the recipients' destination; the driver shall assist with opening the first door of the building or, if the building has a vestibule, shall also open the door of the vestibule;

(4) "driver-assisted services" means any assistance that a recipient may need beyond the recipient's initial point of exit from the vehicle;

(5) "medical transportation" means the transport of a recipient to obtain a covered service or the transport of a recipient after the covered service is provided;

(6) "rural urban commuting area" or "RUCA" means an area determined to be urban, rural, or super rural by the Centers for Medicare and Medicaid Services for purposes of Medicare reimbursement of ambulance services;

(7) "special transportation" means station-to-station nonemergency medical transportation to or from a covered service for a recipient who has a physical or mental impairment that prohibits the recipient from independently and safely accessing and using a bus, taxi, other commercial transportation, or private automobile; and

(8) "station-to-station" means transportation for recipients who require driver-assisted services to and within the building at which the recipients are being picked up from or transported to, beyond the first door or vestibule, which may include assistance to or from a nursing station or medical practitioner's reception station, or assistance with admittance to the medical facility.

Sec. 4. Minnesota Statutes 2008, section 256B.0625, is amended by adding a subdivision to read:

Subd. 17c. **Transportation costs.** (a) Medical assistance covers medical transportation costs incurred solely for obtaining emergency medical care or transportation costs incurred by eligible persons in obtaining emergency or nonemergency medical care when paid directly to an ambulance company, common carrier, or other recognized providers of transportation services. Medical transportation must be provided by:

(1) ambulance, as defined in section 144E.001, subdivision 2;

(2) special transportation;

(3) access transportation service; or

(4) other common carrier, including, but not limited to, bus, taxicab, other commercial carrier, or private automobile.

(b) The commissioner shall certify that the recipient requires special transportation services by use of a level of need determination, as described in section 256B.04, subdivision 14a. Drivers providing nonemergency medical transportation in a vehicle equipped to transport a recipient in a wheelchair or stretcher shall be responsible for assistance in passenger securement and in securing of wheelchairs or stretchers in the vehicle. Special transportation providers must obtain written documentation from the health care service provider who is serving the recipient being transported, identifying the time that the recipient arrived. Special transportation and access transportation providers may not bill for separate base rates for the continuation of a trip beyond the original destination. Special transportation and access transportation providers must take recipients to the nearest appropriate health care provider, using the quickest route available as determined by a commercially available software program approved by the commissioner and designated by the provider as the program to be used to determine the route and mileage for all trips.

Sec. 5. Minnesota Statutes 2008, section 256B.0625, is amended by adding a subdivision to read:

Subd. 17d. **Payment for nonemergency medical transportation.** The minimum medical assistance reimbursement rates for nonemergency medical transportation services are:

(1) for areas defined under Rural-Urban Commuting Area codes (RUCA) as urban:

(i) \$17 for the base rate and \$1.50 per mile for services to eligible persons who need a wheelchair-accessible van for special transportation services;

(ii) \$11 for the base rate and \$1.45 per mile for services to eligible persons who do not need a wheelchair-accessible van for special transportation services;

(iii) \$8 for the base rate and \$1.45 per mile for services to eligible persons who need a wheelchair-accessible van for curb-to-curb access transportation service;

(iv) \$11 for the base rate and \$1.45 per mile for services to eligible persons who need a wheelchair-accessible van for door-through-door access transportation service;

(v) \$5 for the base rate and \$1.45 per mile for services to eligible persons who do not need a wheelchair-accessible van for curb-to-curb access transportation service;

(vi) \$7 for the base rate and \$1.45 per mile for services to eligible persons who do not need a wheelchair-accessible van for door-through-door access transportation service; and

(vii) \$60 for the base rate and \$2.40 per mile, and an attendant rate of \$9 per trip, for services to eligible persons who need a stretcher-accessible vehicle;

(2) for areas defined under RUCA as rural: the same base rate as for areas defined under RUCA as urban and 110 percent of the urban mileage rate;

(3) for areas defined under RUCA as super rural: the same base rate as for areas defined under RUCA as urban and 115 percent of the urban mileage rate;

(4) for all special transportation and access transportation services, for a trip equal to or exceeding 51 miles, the provider shall receive mileage reimbursement for each mile equal to or exceeding 51 miles at 125 percent of the urban mileage rate; this rate shall supersede that specified in clauses (2) and (3) for areas defined as rural and super rural; and

(5) For purposes of reimbursement rates for special transportation and access transportation services, the recipient's place of residence shall determine whether the RUCA urban, rural, or super rural reimbursement rate applies.

Sec. 6. Minnesota Statutes 2008, section 256B.0625, is amended by adding a subdivision to read:

Subd. 17e. **Access transportation services in metropolitan area.** Access transportation services in the 11-county metropolitan area shall be coordinated by the "Minnesota Non-Emergency Transportation" (MNET) program. MNET shall ensure that the most appropriate and cost-effective form of transportation is utilized for any eligible person in obtaining nonemergency medical care. The contractor or broker administering this program shall be paid as follows:

(1) for the actual cost of service that is reimbursed to access transportation service providers or actual cost incurred for each bus pass or mileage reimbursement provided to recipients, plus a "trip administration fee" in the amount of \$5 for each completed trip;

(2) for "standing orders," defined as a trip by a recipient with the same origin and destination for which the recipient is transported two or more times per week, the trip administration fee for that trip shall be \$7.50 per calendar week, regardless of the number of times the recipient travels from that same origin to that same destination during that week;

(3) the trip administration fee shall only be paid for trips for which the recipient received transportation, and shall not be paid for any "no-shows" or "cancellations"; and

(4) level of need determinations shall be paid at a rate of \$25 each for recipients who are ambulatory, who use wheelchairs, or who require nonemergency stretcher transportation; there shall not be any payment for level of need determinations in excess of the number that is authorized for a recipient in section 256B.04, subdivision 14a.

Sec. 7. Minnesota Statutes 2008, section 256B.0625, is amended by adding a subdivision to read:

Subd. 17f. **Applicability.** Subdivisions 17b to 17e shall not apply to transit or paratransit services provided or assisted by the Metropolitan Council under Minnesota Statutes, sections 473.371 to 473.449.

Sec. 8. **REPEALER.**

Minnesota Statutes 2008, section 256B.0625, subdivision 17, is repealed."

Delete the title and insert:

"A bill for an act relating to human services; modifying medical transportation requirements; modifying reimbursement; amending Minnesota Statutes 2008, sections 256.045, by adding a subdivision; 256B.04, subdivision 14a; 256B.0625, by adding subdivisions; repealing Minnesota Statutes 2008, section 256B.0625, subdivision 17."

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

The report was adopted.

Pelowski from the Committee on State and Local Government Operations Reform, Technology and Elections to which was referred:

H. F. No. 424, A bill for an act relating to natural resources; modifying the Critical Areas Act of 1973; requiring rulemaking; appropriating money; amending Minnesota Statutes 2008, section 116G.15.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 116G.15, is amended to read:

116G.15 MISSISSIPPI RIVER CORRIDOR CRITICAL AREA.

Subdivision 1. **Establishment; purpose.** (a) The federal Mississippi National River and Recreation Area established pursuant to United States Code, title 16, section 460zz-2(k), is designated an area of critical concern in accordance with this chapter. ~~The governor shall review the existing Mississippi River critical area plan and specify any additional standards and guidelines to affected communities in accordance with section 116G.06, subdivision 2, paragraph (b), clauses (3) and (4), needed to insure preservation of the area pending the completion of the federal plan.~~ The purpose of the designation is to:

(1) protect and preserve the Mississippi River and adjacent lands that the legislature finds to be unique, valuable, and dynamic and environmental state and regional resources for the benefit of the health, safety, and welfare of the citizens of the state, region, and nation;

(2) prevent and mitigate irreversible damages to the natural resources listed under clause (1);

(3) preserve and enhance the natural, aesthetic, cultural, recreational, and historical values of the Mississippi River and its corridor for public use and benefit;

(4) protect and preserve the Mississippi River and its corridor as an essential element in the national, state, and regional transportation, sewer and water, and recreational systems; and

(5) protect and preserve the biological and ecological functions of the Mississippi River and its corridor.

~~The results of an environmental impact statement prepared under chapter 116D begun before and completed after July 1, 1994, for a proposed project that is located in the Mississippi River critical area north of the United States Army Corps of Engineers Lock and Dam Number One must be submitted in a report to the chairs of the environment and natural resources policy and finance committees of the house of representatives and the senate prior to the issuance of any state or local permits and the authorization for an issuance of any bonds for the project. A report made under this paragraph shall be submitted by the responsible governmental unit that prepared the environmental impact statement, and must list alternatives to the project that are determined by the environmental impact statement to be economically less expensive and environmentally superior to the proposed project and identify any legislative actions that may assist in the implementation of environmentally superior alternatives. This paragraph does not apply to a proposed project to be carried out by the Metropolitan Council or a metropolitan agency as defined in section 473.121.~~

~~(b) If the results of an environmental impact statement required to be submitted by paragraph (a) indicate that there is an economically less expensive and environmentally superior alternative, then no member agency of the Environmental Quality Board shall issue a permit for the facility that is the subject of the environmental impact statement, other than an economically less expensive and environmentally superior alternative, nor shall any government bonds be issued for the facility, other than an economically less expensive and environmentally superior alternative, until after the legislature has adjourned its regular session sine die in 1996.~~

Subd. 2. **Administration; rules.** (a) The commissioner of natural resources may adopt such rules pursuant to chapter 14 as are necessary for the administration of the Mississippi River corridor critical area program. Duties of the Environmental Quality Council or the Environmental Quality Board referenced in this chapter and related rules and in the governor's executive order number 79-19, published in the State Register on March 12, 1979, related to the Mississippi River corridor critical area shall be the duties of the commissioner. All rules adopted by the board pursuant to these duties remain in effect and shall be enforced until amended or repealed by the commissioner in accordance with law. The commissioner shall work in consultation with the United States Army Corps of Engineers, the National Park Service, the Metropolitan Council, other agencies, and local units of government to ensure that the Mississippi River corridor critical area is managed in a way that:

(1) conserves the scenic, environmental, recreational, mineral, economic, cultural, and historic resources and functions of the river corridor;

(2) maintains the river channel for transportation by providing and maintaining barging and fleeting areas in appropriate locations consistent with the character of the Mississippi River and riverfront;

(3) provides for the continuation and development of a variety of urban uses, including industrial and commercial uses, and residential uses, where appropriate, within the Mississippi River and its corridor;

(4) utilizes certain reaches of the river as a source of water supply and for receiving wastewater effluents and discharges that meet all applicable standards; and

(5) protects and preserves the biological and ecological functions of the corridor.

(b) The Metropolitan Council shall incorporate the standards developed under this section into its planning and shall work with local units of government and the commissioner to ensure the standards are being adopted and implemented appropriately.

Subd. 3. **Districts.** The commissioner shall establish districts within the Mississippi River corridor critical area. The commissioner must seek to minimize the number of districts within any one municipality and take into account existing ordinances. The commissioner shall consider the following when establishing the districts:

- (1) the protection of the major features of the river in existence as of March 12, 1979;
- (2) the protection of improvements such as parks, trails, natural areas, recreational areas, and interpretive centers;
- (3) the use of the Mississippi River as a source of drinking water;
- (4) the protection of resources identified in the Mississippi National River and Recreation Area Comprehensive Management Plan;
- (5) the protection of resources identified in comprehensive plans developed by counties, cities, and towns within the Mississippi River corridor critical area;
- (6) the intent of the Mississippi River corridor critical area land use districts from the governor's executive order number 79-19, published in the State Register on March 12, 1979; and
- (7) identified scenic, geologic, and ecological resources.

Subd. 4. **Standards.** (a) The commissioner shall establish minimum guidelines and standards for the districts established in subdivision 3. The guidelines and standards for each district shall include the intent of each district, key resources and features to be protected or enhanced based upon paragraph (b), permitted uses, and dimensional and performance standards for development. The commissioner must take into account existing ordinances when developing the guidelines and standards under this section. The commissioner may provide certain exceptions and criteria for standards, including, but not limited to, exceptions for river access facilities, water supply facilities, storm water facilities, wastewater treatment facilities, and hydropower facilities.

(b) The guidelines and standards must protect or enhance the following key resources and features:

- (1) floodplains;
- (2) wetlands;
- (3) gorges;
- (4) areas of confluence with key tributaries;
- (5) natural drainage routes;
- (6) shorelines and riverbanks;
- (7) bluffs;
- (8) steep slopes and very steep slopes;
- (9) unstable soils and bedrock;
- (10) significant existing vegetative stands, tree canopies, and native plant communities;
- (11) scenic views and vistas;
- (12) publicly owned parks, trails, and open spaces;

(13) cultural and historic sites and structures; and

(14) water quality.

(c) The commissioner shall establish a map to define bluffs and bluff-related features within the Mississippi River corridor critical area. At the outset of the rulemaking process, the commissioner shall create a preliminary map of all the bluffs and bluff lines within the Mississippi River corridor critical area, based on the guidelines in paragraph (d). The rulemaking process shall provide an opportunity to refine the preliminary bluff map. The commissioner may add to or remove areas of demonstrably unique or atypical conditions that warrant special protection or exemption. At the end of the rulemaking process, the commissioner shall adopt a final bluff map that contains associated features, including bluff lines, bases of bluffs, steep slopes, and very steep slopes.

(d) The following guidelines shall be used by the commissioner to create a preliminary bluff map as part of the rulemaking process:

(1) "bluff face" or "bluff" means the area between the bluff line and the bluff base. A bluff is a high, steep, natural topographic feature such as a broad hill, cliff, or embankment with a slope of 18 percent or greater and a vertical rise of at least ten feet between the bluff base and the bluff line;

(2) "bluff line" means a line delineating the top of a slope connecting the points at which the slope becomes less than 18 percent. More than one bluff line may be encountered proceeding upslope from the river valley;

(3) "bluff base" means a line delineating the bottom of a slope connecting the points at which the slope becomes 18 percent or greater. More than one bluff base may be encountered proceeding landward from the water;

(4) "steep slopes" means 12 percent to 18 percent slopes. Steep slopes are natural topographic features with an average slope of 12 to 18 percent measured over a horizontal distance of 50 feet or more; and

(5) "very steep slopes" means slopes 18 percent or greater. Very steep slopes are natural topographic features with an average slope of 18 percent or greater, measured over a horizontal distance of 50 feet or more.

Subd. 5. **Application.** The standards established under this section shall be used:

(1) by local units of government when preparing or updating plans or modifying regulations;

(2) by state and regional agencies for permit regulation and in developing plans within their jurisdiction;

(3) by the Metropolitan Council for reviewing plans, regulations, and development permit applications; and

(4) by the commissioner when approving plans, regulations, and development permit applications.

Subd. 6. **Notification; fees.** (a) A local unit of government or a regional or state agency shall notify the commissioner of natural resources of all developments in the corridor that require discretionary actions under their rules at least ten days before taking final action on the application. A local unit of government or agency failing to notify the commissioner at least ten days before taking final action shall submit a late fee of \$50 to the commissioner. The commissioner may establish exemptions from the notification requirement for certain types of applications. For purposes of this section, a discretionary action includes all actions that require a public hearing, including variances, conditional use permits, and zoning amendments.

(b) The commissioner shall recover costs of reviewing information submitted under paragraph (a). Amounts collected under this paragraph must be credited to an account in the natural resources fund and are appropriated to the commissioner.

Subd. 7. **Rules.** The commissioner shall adopt rules to ensure compliance with this section. By January 15, 2010, the commissioner shall begin the rulemaking required by this section under chapter 14. Until the rules required under this section take effect, the commissioner shall administer the Mississippi River corridor critical area program in accordance with the governor's executive order number 79-19, published in the State Register on March 12, 1979.

Sec. 2. **APPROPRIATION.**

\$225,000 in fiscal year 2010 and \$225,000 in fiscal year 2011 are appropriated from the clean water fund to the commissioner of natural resources to develop and adopt rules for the Mississippi River corridor critical area under Minnesota Statutes, section 116G.15, in order to achieve the required outcomes. The commissioner shall begin rulemaking under Minnesota Statutes, chapter 14, no later than January 15, 2010.

Sec. 3. **REPEALER.**

Minnesota Statutes 2008, section 116G.151, is repealed."

Delete the title and insert:

"A bill for an act relating to natural resources; modifying the Critical Areas Act of 1973; requiring rulemaking; appropriating money; amending Minnesota Statutes 2008, section 116G.15; repealing Minnesota Statutes 2008, section 116G.151."

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

The report was adopted.

Thissen from the Committee on Health Care and Human Services Policy and Oversight to which was referred:

H. F. No. 504, A bill for an act relating to health; establishing a women's heart health program; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 144.

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

The report was adopted.

Lieder from the Transportation Finance and Policy Division to which was referred:

H. F. No. 572, A bill for an act relating to drivers' licenses; providing for designation of veteran status on drivers' licenses and Minnesota identification cards; amending Minnesota Statutes 2008, sections 171.06, subdivision 3; 171.07, by adding a subdivision.

Reported the same back with the following amendments:

Page 1, line 23, before the period, insert ", and the driving record under section 171.12, subdivision 5a"

Page 2, line 32, delete "served" and insert "is a veteran, as defined in section 197.447."

Page 2, delete lines 33 and 34

Page 3, after line 2, insert:

"(c) The commissioner of public safety is required to issue drivers' licenses and Minnesota identification cards with the veteran designation only after entering a new contract or in coordination with producing a new card design with modifications made as required by law.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to drivers' licenses and Minnesota identification cards issued as stated in paragraph (c).

Sec. 3. Minnesota Statutes 2008, section 171.12, is amended by adding a subdivision to read:

Subd. 5a. **Veteran designation.** When an applicant for a driver's license, instruction permit, or Minnesota identification card requests a veteran designation under section 171.06, subdivision 3, the commissioner shall maintain a computer record of veteran designations. The veteran designation may be removed from the computer record only upon written notice to the department. The veteran designation is classified as private data on individuals, as defined in section 13.02, subdivision 12."

Amend the title as follows:

Page 1, line 2, delete "on" and insert "for"

Page 1, line 3, delete "and" and insert a comma and before the semicolon, insert ", and driver records"

Correct the title numbers accordingly

With the recommendation that when so amended the bill pass.

The report was adopted.

Thissen from the Committee on Health Care and Human Services Policy and Oversight to which was referred:

H. F. No. 657, A bill for an act relating to human services; modifying 24-hour customized living services; amending Minnesota Statutes 2008, section 256B.0915, subdivision 3h.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 256B.441, is amended by adding a subdivision to read:

Subd. 59. **Critical access nursing facilities.** (a) The commissioner, in consultation with the commissioner of health, shall designate qualifying nursing facilities as critical access nursing facilities.

(b) A nursing facility may apply to be designated a critical access nursing facility if it meets the following criteria:

(1) it is located more than 20 miles, defined as official mileage as reported by the Minnesota Department of Transportation, from the nearest licensed and certified nursing facility or hospital with swing beds;

(2) it is located in a county that would be in the lowest quartile of counties measured in terms of the number of licensed and certified nursing facility beds per 1,000 residents age 65 or older, if the nursing facility were to close; and

(3) it agrees to permanently delicense all beds in layaway status under section 144A.071, subdivision 4b, at the time of designation.

(c) The operating payment rates for a nursing facility designated as a critical access nursing facility shall be the greater of:

(1) rates determined by the commissioner under this section, beginning October 1, 2009, without application of the phase-in period in subdivision 55. For purposes of determining the operating payment rate limits in subdivision 50, the facility shall be included in peer group I; or

(2) operating payment rates determined by the commissioner for the rate year beginning October 1, 2009, that are equal for a RUG's rate level with a weight of 1.00 to the peer group I median operating payment rate for that RUG's level. The percentage of operating payment rate to be case-mix adjusted shall be equal to the percentage of allowable costs that are case-mix adjusted in the facility's most recent available and audited annual statistical and cost report. This paragraph applies only if it results in a rate increase.

(d) The commissioner shall request applications from eligible nursing facilities for critical access nursing facility status designation within 60 days of enactment of this subdivision and may request additional applications at any time.

(e) The commissioner of health shall give priority to a critical access nursing facility for approval of nursing home moratorium exception proposals under section 144A.073.

Sec. 2. Minnesota Statutes 2008, section 256B.441, is amended by adding a subdivision to read:

Subd. 60. **Rate decrease for certain nursing facilities.** Effective October 1, 2009, operating payment rates of all nursing facilities that are reimbursed under this section or section 256B.434, shall be decreased to be equal, for a RUG's rate with a weight of 1.00, to the peer group I median rate for the same RUG's weight, but no facility's rate shall be decreased more than five percent. The percentage of the operating payment rate for each facility to be case-mix adjusted shall be equal to the percentage that is case-mix adjusted in that facility's September 30, 2009, operating payment rate. This subdivision shall apply only if it results in a rate decrease. Decreases determined under this subdivision shall be subtracted from rates after the blending required by subdivision 55, paragraph (a).

Sec. 3. **APPROPRIATIONS.**

All savings to the general fund resulting from implementation of Minnesota Statutes, section 256B.441, subdivision 60, are appropriated to the commissioner of human services for general fund costs related to funding critical access nursing facilities as described in Minnesota Statutes, section 256B.441, subdivision 59."

Delete the title and insert:

"A bill for an act relating to human services; designating critical access nursing facilities; providing a rate decrease for certain nursing facilities; appropriating any cost savings; amending Minnesota Statutes 2008, section 256B.441, by adding subdivisions."

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

The report was adopted.

Hornstein from the Transportation and Transit Policy and Oversight Division to which was referred:

H. F. No. 898, A bill for an act relating to environment; adding greenhouse gas reduction goals and strategies to various state and metropolitan programs and plans; establishing goals for per capita reduction in vehicle miles traveled to reduce greenhouse gases; transferring and appropriating money; amending Minnesota Statutes 2008, sections 103B.3355; 116D.04, by adding a subdivision; 123B.70, subdivision 1; 123B.71, subdivision 9; 473.121, by adding a subdivision; 473.145; 473.146, by adding a subdivision; 473.25; 473.856; 473.858, subdivisions 1, 2; 473.864, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 116C; 174.

Reported the same back with the following amendments:

Page 3, delete section 3

Page 6, line 21, delete "VEHICLE MILES TRAVELED" and insert "PER CAPITA VEHICLE MILES DRIVEN"

Page 6, line 22, delete "Vehicle miles traveled" and insert "Per capita vehicle miles driven"

Page 6, line 23, delete "traveled" and insert "driven"

Page 6, line 27, delete "vehicle miles"

Page 6, delete lines 28 and 29 and insert "per capital vehicle miles driven. The implemented policies shall not mandate that individuals reduce their per capita vehicle miles driven."

Page 6, before line 30, insert:

"Sec. 7. **[174.40] SENSIBLE COMMUNITIES GRANT PROGRAM.**

(a) The commissioner of transportation shall collaborate with the Minnesota Housing Finance Agency to seek funding through the United States Departments of Transportation and Housing and Urban Development sustainable communities partnership when that funding is available. The commissioner of transportation may use funds received from the sustainable communities partnership, or other funds available for planning assistance purposes, to make grants to regional and metropolitan planning organizations outside of the metropolitan area, as defined in section 473.121, subdivision 2, to provide resources and technical assistance to local governmental units for development, adoption, and implementation of plans and ordinances to implement the following strategies:

(1) providing citizens with safe and convenient transportation alternatives, such as transit, walking, and bicycling;

(2) increasing physical activity through community design changes that promote the convenience and safety of walking and bicycling;

(3) maximizing the efficiency and cost-effectiveness of public investments by prioritizing infrastructure maintenance and rehabilitation; and

(4) expanding lifecycle housing opportunities for all income levels, especially in job-rich jurisdictions.

(b) Recipients of sensible communities grants must report to the commissioner of transportation annually for five years following receipt of the grant on the planning activities undertaken and progress made to implement the strategies identified in paragraph (a)."

Page 6, line 32, delete "Vehicle miles traveled" and insert "Per capita vehicle miles driven" and delete "Vehicle miles traveled" and insert "Per capita vehicle miles driven"

Page 7, line 15, delete "Vehicle miles traveled" and insert "Per capita vehicle miles driven"

Page 7, lines 16, 17, 32, and 33, delete "vehicle miles traveled" and insert "per capita vehicle miles driven"

Page 7, line 26, delete "vehicle"

Page 7, line 27, delete "miles traveled" and insert "per capita vehicle miles driven"

Page 8, line 27, delete "vehicle miles traveled" and insert "per capita vehicle miles driven"

Page 12, delete subdivision 5

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, delete "traveled" and insert "driven"

Page 1, line 5, delete "and appropriating"

Correct the title numbers accordingly

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

The report was adopted.

Lieder from the Transportation Finance and Policy Division to which was referred:

H. F. No. 928, A bill for an act relating to transportation; modifying various provisions related to transportation; prohibiting certain acts; amending Minnesota Statutes 2008, sections 169.15; 171.12, subdivision 6; 174.86, subdivision 5; 473.167, subdivision 2a; proposing coding for new law in Minnesota Statutes, chapters 160; 171.

Reported the same back with the following amendments:

Page 2, after line 14, insert:

"EFFECTIVE DATE. This section is effective January 1, 2010, and applies to violations committed on or after that date."

With the recommendation that when so amended the bill pass.

The report was adopted.

Thissen from the Committee on Health Care and Human Services Policy and Oversight to which was referred:

H. F. No. 1002, A bill for an act relating to health; establishing a grant program for nursing education demonstration projects; appropriating money.

Reported the same back with the following amendments:

Page 2, line 1, delete "January" and insert "March"

Page 2, delete line 2 and insert "Scholastica must report to the commissioner of health, the Board of Nursing, and the membership of the Minnesota Association of Colleges of Nursing on the progress made towards the goal stated in"

Page 2, delete lines 5 to 9 and insert:

"\$1,504,000 in fiscal year 2010 is transferred from the state government special revenue fund to the general fund. \$1,504,000 is appropriated in fiscal year 2010 from the general fund to the commissioner of health for grants to the College of St. Catherine and the College of St. Scholastica for the innovation in nursing education demonstration projects. The grants shall be distributed equally so that each grantee receives \$752,000. Grant amounts not expended in the first year of the biennium shall not cancel but shall be available in the second year. This is a onetime appropriation."

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

The report was adopted.

Atkins from the Committee on Commerce and Labor to which was referred:

H. F. No. 1056, A bill for an act relating to construction; requiring prompt payment to construction subcontractors; amending Minnesota Statutes 2008, section 337.10, subdivision 3.

Reported the same back with the following amendments:

Page 1, after line 21, insert:

"Sec. 2. Minnesota Statutes 2008, section 337.10, subdivision 4, is amended to read:

Subd. 4. **Progress payments and retainages.** (a) Unless the building and construction contract provides otherwise, the owner or other persons making payments under the contract must make progress payments monthly as the work progresses. Payments shall be based upon estimates of work completed as approved by the owner or the owner's agent. A progress payment shall not be considered acceptance or approval of any work or waiver of any defects therein.

(b) Unless the building and construction contract provides otherwise, an owner or owner's agent may reserve as retainage from any progress payment on a building and construction contract an amount not to exceed five percent of the payment. An owner or owner's agent may reduce the amount of retainage and may eliminate retainage on any monthly contract payment if, in the owner's opinion, the work is progressing satisfactorily.

(c) This subdivision does not apply to contracts for professional services as defined in sections 326.02 to 326.15.

~~(d) This subdivision does not apply to construction of or improvements to residential real estate, as defined in section 326B.802, subdivision 13, or to construction of or improvements to attached single family dwellings, if those dwellings are used for residential purposes and have fewer than 13 units per structure."~~

Amend the title as follows:

Page 1, line 2, after the second semicolon, insert "regulating progress payments and retainages;"

Correct the title numbers accordingly

With the recommendation that when so amended the bill pass.

The report was adopted.

Atkins from the Committee on Commerce and Labor to which was referred:

H. F. No. 1072, A bill for an act relating to commerce; clarifying the regulation and management of vacation home rentals; amending Minnesota Statutes 2008, section 157.15, by adding a subdivision.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 157.15, is amended by adding a subdivision to read:

Subd. 20. **Vacation home rental.** "Vacation home rental" means any home, cabin, condominium, or similar building that is advertised or held out to the public as a place where sleeping accommodations are furnished to the public on a nightly or weekly basis by a person who rents more than one such home, cabin, condominium, or similar building, for more than two weekends per year. A vacation rental home may be licensed under section 157.16."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Rules and Legislative Administration.

The report was adopted.

Thissen from the Committee on Health Care and Human Services Policy and Oversight to which was referred:

H. F. No. 1110, A bill for an act relating to human services; modifying programs and licensure provisions for services to persons with disabilities; requiring a report; appropriating money; amending Minnesota Statutes 2008, sections 245A.10, subdivision 3; 245A.11, by adding a subdivision; 245C.04, subdivision 1; 245C.20; 256B.5011, subdivision 2; 256B.5012, subdivisions 4, 6, 7; 256B.5013, subdivision 1, by adding a subdivision; 256D.44, subdivision 5; repealing Minnesota Statutes 2008, section 256B.5013, subdivision 5; Minnesota Rules, part 9555.6125, subpart 4, item B.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 245A.10, subdivision 2, is amended to read:

Subd. 2. **County fees for background studies and licensing inspections.** (a) For purposes of family and group family child care licensing under this chapter, a county agency may charge a fee to an applicant or license holder to recover the actual cost of background studies, but in any case not to exceed \$100 annually. A county agency may also charge a license fee to an applicant or license holder not to exceed \$50 for a one-year license or \$100 for a two-year license.

(b) A county agency may charge a fee to a legal nonlicensed child care provider or applicant for authorization to recover the actual cost of background studies completed under section 119B.125, but in any case not to exceed \$100 annually.

(c) Counties may elect to reduce or waive the fees in paragraph (a) or (b):

(1) in cases of financial hardship;

(2) if the county has a shortage of providers in the county's area;

(3) for new providers; or

(4) for providers who have attained at least 16 hours of training before seeking initial licensure.

(d) Counties may allow providers to pay the applicant fees in paragraph (a) or (b) on an installment basis for up to one year. If the provider is receiving child care assistance payments from the state, the provider may have the fees under paragraph (a) or (b) deducted from the child care assistance payments for up to one year and the state shall reimburse the county for the county fees collected in this manner.

(e) For purposes of adult foster care and child foster care licensing under this chapter, a county agency may charge a fee to a corporate applicant or corporate license holder to recover ~~the actual cost of background studies. A county agency may also charge a fee to a corporate applicant or corporate license holder to recover~~ the actual cost of licensing inspections, not to exceed \$500 annually.

(f) Counties may elect to reduce or waive the fees in paragraph (e) under the following circumstances:

(1) in cases of financial hardship;

(2) if the county has a shortage of providers in the county's area; or

(3) for new providers.

Sec. 2. Minnesota Statutes 2008, section 245A.10, subdivision 3, is amended to read:

Subd. 3. **Application fee for initial license or certification.** (a) For fees required under subdivision 1, an applicant for an initial license or certification issued by the commissioner shall submit a \$500 application fee with each new application required under this subdivision. The application fee shall not be prorated, is nonrefundable, and is in lieu of the annual license or certification fee that expires on December 31. The commissioner shall not process an application until the application fee is paid.

(b) Except as provided in clauses (1) to (3), an applicant shall apply for a license to provide services at a specific location.

(1) For a license to provide waived services to persons with developmental disabilities or related conditions, an applicant shall submit an application for each county in which the waived services will be provided. Upon licensure, the license holder may provide services to persons in that county plus no more than three persons at any one time in each of up to ten additional counties. A license holder in one county may not provide services under the home and community-based waiver for persons with developmental disabilities to more than three people in a second county without holding a separate license for that second county. Applicants or licensees providing services under this clause to not more than three persons remain subject to the inspection fees established in section 245A.10, subdivision 2, for each location.

(2) For a license to provide semi-independent living services to persons with developmental disabilities or related conditions, an applicant shall submit a single application to provide services statewide.

(3) For a license to provide independent living assistance for youth under section 245A.22, an applicant shall submit a single application to provide services statewide.

Sec. 3. Minnesota Statutes 2008, section 245A.11, is amended by adding a subdivision to read:

Subd. 8. Alternate overnight supervision technology; adult foster care license. (a) The commissioner may grant an applicant or license holder an adult foster care license for a residence that does not have a caregiver in the residence during normal sleeping hours as required under Minnesota Rules, part 9555.5105, subpart 37, item B, but uses monitoring technology to alert the license holder when an incident occurs that may jeopardize the health, safety, or rights of a foster care recipient. The applicant or license holder must comply with all other requirements under Minnesota Rules, parts 9555.5105 to 9555.6265, and the requirements under this subdivision. The license printed by the commissioner must state in bold and large font:

(1) that staff are not present on-site overnight; and

(2) the telephone number of the county's common entry point for making reports of suspected maltreatment of vulnerable adults under section 626.557, subdivision 9.

(b) Applications for a license under this section must be submitted directly to the Department of Human Services licensing division. The licensing division must immediately notify the host county and lead county contract agency and the host county licensing agency. The licensing division must collaborate with the county licensing agency in the review of the application and the licensing of the program.

(c) Before a license is issued by the commissioner, and for the duration of the license, the applicant or license holder must establish, maintain, and document the implementation of written policies and procedures addressing the requirements in paragraphs (c) to (f).

(d) The applicant or license holder must have policies and procedures that:

(1) establish characteristics of target populations that will be admitted into the home and characteristics of populations that will not be accepted into the home;

(2) explain the discharge process when a foster care recipient requires overnight supervision or other services that cannot be provided by the license holder due to the limited hours that the license holder is on-site;

(3) describe the types of events to which the program will respond with a physical presence when those events occur in the home during time when staff are not on-site, and how the license holder's response plan meets the requirements in clause (1) or (2);

(4) establish a process for documenting a review of the implementation and effectiveness of the response protocol for the response required under clause (1) or (2). The documentation must include:

- (i) a description of the triggering incident;
- (ii) the date and time of the triggering incident;
- (iii) the time of the response or responses under clause (1) or (2);
- (iv) whether the response met the resident's needs;
- (v) whether the existing policies and response protocols were followed; and
- (vi) whether the existing policies and protocols are adequate or need modification.

When no physical presence response is completed for a three-month period, the license holder's written policies and procedures must require a physical presence response drill be to conducted for which the effectiveness of the response protocol under clause (1) or (2), will be reviewed and documented as required under this clause; and

(5) establish that emergency and nonemergency phone numbers are posted in a prominent location in a common area of the home where they can be easily observed by a person responding to an incident who is not otherwise affiliated with the home.

(e) The license holder must document and include in the license application which response alternative under clause (1) or (2) is in place for responding to situations that present a serious risk to the health, safety, or rights of people receiving foster care services in the home:

(1) response alternative (1) requires only the technology to provide an electronic notification or alert to the license holder that an event is underway that requires a response. Under this alternative, no more than ten minutes will pass before the license holder will be physically present on-site to respond to the situation; or

(2) response alternative (2) requires the electronic notification and alert system under alternative (1), but more than ten minutes may pass before the license holder is present on-site to respond to the situation. Under alternative (2), all of the following conditions are met:

(i) the license holder has a written description of the interactive technological applications that will assist the licenser holder in communicating with and assessing the needs related to care, health, and safety of the foster care recipients. This interactive technology must permit the license holder to remotely assess the well being of the foster care recipient without requiring the initiation or participation by the foster care recipient. Requiring the foster care recipient to initiate a telephone call or answer a telephone call does not meet this requirement;

(ii) the license holder documents how the remote license holder is qualified and capable of meeting the needs of the foster care recipients and assessing foster care recipients' needs during the absence of the license holder on-site;

(iii) the license holder maintains written procedures to dispatch emergency response personnel to the site in the event of an identified emergency; and

(iv) each foster care recipient's individualized plan of care, individual service plan under section 256B.092, subdivision 1b, if required, or individual resident placement agreement under Minnesota Rules, part 9555.5105, subpart 19, if required, identifies the maximum response time, which may be greater than ten minutes, for the license holder to be on-site for that foster care recipient.

(f) All placement agreements, individual service agreements, and plans applicable to the foster care recipient must clearly state that the adult foster care license category is a program without the presence of a caregiver in the residence during normal sleeping hours; the protocols in place for responding to situations that present a serious risk to health, safety, or rights of foster care recipients under paragraph (d), clause (1) or (2); and a signed informed consent from each foster care recipient or the person's legal representative documenting the person's or legal representative's agreement with placement in the program. If electronic monitoring technology is used in the home, the informed consent form must also explain the following:

(1) how any electronic monitoring is incorporated into the alternative supervision system;

(2) the backup system for any electronic monitoring in times of electrical outages or other equipment malfunctions;

(3) how the license holder is trained on the use of the technology;

(4) the event types and license holder response times established under paragraph (d);

(5) how the license holder protects the foster care recipient's privacy related to electronic monitoring and related to any electronically recorded data generated by the monitoring system. The consent form must explain where and how the electronically recorded data is stored, with whom it will be shared, and how long it is retained; and

(6) the risks and benefits of the alternative overnight supervision system.

The written explanations under clauses (1) to (6) may be accomplished through cross-references to other policies and procedures as long as they are explained to the person giving consent, and the person giving consent is offered a copy.

(g) Nothing in this section requires the applicant or license holder to develop or maintain separate or duplicative policies, procedures, documentation, consent forms, or individual plans that may be required for other licensing standards, if the requirements of this section are incorporated into those documents.

(h) The commissioner may grant variances to the requirements of this section according to section 245A.04, subdivision 9.

(i) For the purposes of paragraphs (b) to (h), "license holder" has the meaning under section 245A.02, subdivision 9, and additionally includes all staff, volunteers, and contractors affiliated with the license holder.

Sec. 4. Minnesota Statutes 2008, section 245A.16, subdivision 1, is amended to read:

Subdivision 1. **Delegation of authority to agencies.** (a) County agencies and private agencies that have been designated or licensed by the commissioner to perform licensing functions and activities under section 245A.04 and background studies for ~~adult foster care~~, family adult day services, and family child care, under chapter 245C; to recommend denial of applicants under section 245A.05; to issue correction orders, to issue variances, and recommend a conditional license under section 245A.06, or to recommend suspending or revoking a license or issuing a fine under section 245A.07, shall comply with rules and directives of the commissioner governing those functions and with this section. The following variances are excluded from the delegation of variance authority and may be issued only by the commissioner:

(1) dual licensure of family child care and child foster care, dual licensure of child and adult foster care, and adult foster care and family child care;

- (2) adult foster care maximum capacity;
- (3) adult foster care minimum age requirement;
- (4) child foster care maximum age requirement;

(5) variances regarding disqualified individuals except that county agencies may issue variances under section 245C.30 regarding disqualified individuals when the county is responsible for conducting a consolidated reconsideration according to sections 245C.25 and 245C.27, subdivision 2, clauses (a) and (b), of a county maltreatment determination and a disqualification based on serious or recurring maltreatment; and

- (6) the required presence of a caregiver in the adult foster care residence during normal sleeping hours.

(b) County agencies must report information about disqualification reconsiderations under sections 245C.25 and 245C.27, subdivision 2, paragraphs (a) and (b), and variances granted under paragraph (a), clause (5), to the commissioner at least monthly in a format prescribed by the commissioner.

(c) For family day care programs, the commissioner may authorize licensing reviews every two years after a licensee has had at least one annual review.

(d) For family adult day services programs, the commissioner may authorize licensing reviews every two years after a licensee has had at least one annual review.

- (e) A license issued under this section may be issued for up to two years.

Sec. 5. Minnesota Statutes 2008, section 245A.16, subdivision 3, is amended to read:

Subd. 3. **Recommendations to commissioner.** The county or private agency shall not make recommendations to the commissioner regarding licensure without first conducting an inspection, and for ~~adult foster care~~, family adult day services, and family child care, a background study of the applicant under chapter 245C. The county or private agency must forward its recommendation to the commissioner regarding the appropriate licensing action within 20 working days of receipt of a completed application.

Sec. 6. Minnesota Statutes 2008, section 245C.04, subdivision 1, is amended to read:

Subdivision 1. **Licensed programs.** (a) The commissioner shall conduct a background study of an individual required to be studied under section 245C.03, subdivision 1, at least upon application for initial license for all license types.

(b) The commissioner shall conduct a background study of an individual required to be studied under section 245C.03, subdivision 1, at reapplication for a license for ~~adult foster care~~, family adult day services, and family child care.

(c) The commissioner is not required to conduct a study of an individual at the time of reapplication for a license if the individual's background study was completed by the commissioner of human services for an adult foster care license holder that is also:

- (1) registered under chapter 144D; or

(2) licensed to provide home and community-based services to people with disabilities at the foster care location and the license holder does not reside in the foster care residence; and

(3) the following conditions are met:

(i) a study of the individual was conducted either at the time of initial licensure or when the individual became affiliated with the license holder;

(ii) the individual has been continuously affiliated with the license holder since the last study was conducted; and

(iii) the last study of the individual was conducted on or after October 1, 1995.

(d) From July 1, 2007, to June 30, 2009, the commissioner of human services shall conduct a study of an individual required to be studied under section 245C.03, at the time of reapplication for a child foster care license. The county or private agency shall collect and forward to the commissioner the information required under section 245C.05, subdivisions 1, paragraphs (a) and (b), and 5, paragraphs (a) and (b). The background study conducted by the commissioner of human services under this paragraph must include a review of the information required under section 245C.08, subdivisions 1, paragraph (a), clauses (1) to (5), 3, and 4.

(e) The commissioner of human services shall conduct a background study of an individual specified under section 245C.03, subdivision 1, paragraph (a), clauses (2) to (6), who is newly affiliated with a child foster care license holder. The county or private agency shall collect and forward to the commissioner the information required under section 245C.05, subdivisions 1 and 5. The background study conducted by the commissioner of human services under this paragraph must include a review of the information required under section 245C.08, subdivisions 1, 3, and 4.

(f) From January 1, 2010, to December 31, 2012, unless otherwise specified in paragraph (c), the commissioner shall conduct a study of an individual required to be studied under section 245C.03 at the time of reapplication for an adult foster care license. The county shall collect and forward to the commissioner the information required under section 245C.05, subdivision 1, paragraphs (a) and (b), and subdivision 5, paragraphs (a) and (b). The background study conducted by the commissioner under this paragraph must include a review of the information required under section 245C.08, subdivision 1, paragraph (a), clauses (1) to (5), and subdivisions 3 and 4.

(g) The commissioner shall conduct a background study of an individual specified under section 245C.03, subdivision 1, paragraph (a), clauses (2) to (6), who is newly affiliated with an adult foster care license holder. The county shall collect and forward to the commissioner the information required under section 245C.05, subdivision 1, paragraphs (a) and (b), and subdivision 5, paragraphs (a) and (b). The background study conducted by the commissioner under this paragraph must include a review of the information required under section 245C.08, subdivision 1, paragraph (a), and subdivisions 3 and 4.

(h) Applicants for licensure, license holders, and other entities as provided in this chapter must submit completed background study forms to the commissioner before individuals specified in section 245C.03, subdivision 1, begin positions allowing direct contact in any licensed program.

~~(g)~~ (i) For purposes of this section, a physician licensed under chapter 147 is considered to be continuously affiliated upon the license holder's receipt from the commissioner of health or human services of the physician's background study results.

Sec. 7. Minnesota Statutes 2008, section 245C.05, subdivision 4, is amended to read:

Subd. 4. **Electronic transmission.** For background studies conducted by the Department of Human Services, the commissioner shall implement a system for the electronic transmission of:

(1) background study information to the commissioner;

(2) background study results to the license holder; ~~and~~

(3) background study results to county and private agencies for background studies conducted by the commissioner for child foster care; and

(4) background study results to county agencies for background studies conducted by the commissioner for adult foster care.

Sec. 8. Minnesota Statutes 2008, section 245C.08, subdivision 2, is amended to read:

Subd. 2. **Background studies conducted by a county agency.** (a) For a background study conducted by a county agency for ~~adult foster care~~, family adult day services, and family child care services, the commissioner shall review:

(1) information from the county agency's record of substantiated maltreatment of adults and the maltreatment of minors;

(2) information from juvenile courts as required in subdivision 4 for individuals listed in section 245C.03, subdivision 1, clauses (2), (5), and (6); and

(3) information from the Bureau of Criminal Apprehension.

(b) If the individual has resided in the county for less than five years, the study shall include the records specified under paragraph (a) for the previous county or counties of residence for the past five years.

(c) Notwithstanding expungement by a court, the county agency may consider information obtained under paragraph (a), clause (3), unless the commissioner received notice of the petition for expungement and the court order for expungement is directed specifically to the commissioner.

Sec. 9. Minnesota Statutes 2008, section 245C.10, is amended by adding a subdivision to read:

Subd. 5. **Adult foster care services.** The commissioner shall recover the cost of background studies required under section 245C.03, subdivision 1, for the purposes of adult foster care licensing, through a fee of no more than \$20 per study charged to the license holder. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

Sec. 10. Minnesota Statutes 2008, section 245C.17, is amended by adding a subdivision to read:

Subd. 6. **Notice to county agency.** For studies on individuals related to a license to provide adult foster care, the commissioner shall also provide a notice of the background study results to the county agency that initiated the background study.

Sec. 11. Minnesota Statutes 2008, section 245C.20, is amended to read:

245C.20 LICENSE HOLDER RECORD KEEPING.

A licensed program shall document the date the program initiates a background study under this chapter in the program's personnel files. When a background study is completed under this chapter, a licensed program shall maintain a notice that the study was undertaken and completed in the program's personnel files. Except when background studies are initiated through the commissioner's online system, if a licensed program has not received a response from the commissioner under section 245C.17 within 45 days of initiation of the background study request,

the licensed program must contact the ~~commissioner~~ human services licensing division to inquire about the status of the study. If a license holder initiates a background study under the commissioner's online system, but the background study subject's name does not appear in the list of active or recent studies initiated by that license holder, the license holder must either contact the human services licensing division or resubmit the background study information online for that individual.

Sec. 12. Minnesota Statutes 2008, section 245C.21, subdivision 1a, is amended to read:

Subd. 1a. **Submission of reconsideration request to county or private agency.** (a) For disqualifications related to studies conducted by county agencies for family child care and family adult day services, and for disqualifications related to studies conducted by the commissioner for child foster care and adult foster care, the individual shall submit the request for reconsideration to the county ~~or private~~ agency that initiated the background study.

(b) For disqualifications related to studies conducted by the commissioner for child foster care, the individual shall submit the request for reconsideration to the private agency that initiated the background study.

(c) A reconsideration request shall be submitted within 30 days of the individual's receipt of the disqualification notice or the time frames specified in subdivision 2, whichever time frame is shorter.

~~(d)~~ (d) The county or private agency shall forward the individual's request for reconsideration and provide the commissioner with a recommendation whether to set aside the individual's disqualification.

Sec. 13. Minnesota Statutes 2008, section 245C.23, subdivision 2, is amended to read:

Subd. 2. **Commissioner's notice of disqualification that is not set aside.** (a) The commissioner shall notify the license holder of the disqualification and order the license holder to immediately remove the individual from any position allowing direct contact with persons receiving services from the license holder if:

(1) the individual studied does not submit a timely request for reconsideration under section 245C.21;

(2) the individual submits a timely request for reconsideration, but the commissioner does not set aside the disqualification for that license holder under section 245C.22;

(3) an individual who has a right to request a hearing under sections 245C.27 and 256.045, or 245C.28 and chapter 14 for a disqualification that has not been set aside, does not request a hearing within the specified time; or

(4) an individual submitted a timely request for a hearing under sections 245C.27 and 256.045, or 245C.28 and chapter 14, but the commissioner does not set aside the disqualification under section 245A.08, subdivision 5, or 256.045.

(b) If the commissioner does not set aside the disqualification under section 245C.22, and the license holder was previously ordered under section 245C.17 to immediately remove the disqualified individual from direct contact with persons receiving services or to ensure that the individual is under continuous, direct supervision when providing direct contact services, the order remains in effect pending the outcome of a hearing under sections 245C.27 and 256.045, or 245C.28 and chapter 14.

(c) For background studies related to child foster care, the commissioner shall also notify the county or private agency that initiated the study of the results of the reconsideration.

(d) For background studies related to adult foster care, the commissioner shall also notify the county that initiated the study of the results of the reconsideration.

Sec. 14. Minnesota Statutes 2008, section 256B.5011, subdivision 2, is amended to read:

Subd. 2. **Contract provisions.** (a) The service contract with each intermediate care facility must include provisions for:

(1) modifying payments when significant changes occur in the needs of the consumers;

~~(2) the establishment and use of a quality improvement plan. Using criteria and options for performance measures developed by the commissioner, each intermediate care facility must identify a minimum of one performance measure on which to focus its efforts for quality improvement during the contract period;~~

~~(3)~~ appropriate and necessary statistical information required by the commissioner;

~~(4)~~ (3) annual aggregate facility financial information; and

~~(5)~~ (4) additional requirements for intermediate care facilities not meeting the standards set forth in the service contract.

(b) The commissioner of human services and the commissioner of health, in consultation with representatives from counties, advocacy organizations, and the provider community, shall review the consolidated standards under chapter 245B and the supervised living facility rule under Minnesota Rules, chapter 4665, to determine what provisions in Minnesota Rules, chapter 4665, may be waived by the commissioner of health for intermediate care facilities in order to enable facilities to implement the performance measures in their contract and provide quality services to residents without a duplication of or increase in regulatory requirements.

Sec. 15. Minnesota Statutes 2008, section 256B.5013, subdivision 1, is amended to read:

Subdivision 1. **Variable rate adjustments.** (a) For rate years beginning on or after October 1, 2000, when there is a documented increase in the needs of a current ICF/MR recipient, the county of financial responsibility may recommend a variable rate to enable the facility to meet the individual's increased needs. Variable rate adjustments made under this subdivision replace payments for persons with special needs under section 256B.501, subdivision 8, and payments for persons with special needs for crisis intervention services under section 256B.501, subdivision 8a. Effective July 1, 2003, facilities with a base rate above the 50th percentile of the statewide average reimbursement rate for a Class A facility or Class B facility, whichever matches the facility licensure, are not eligible for a variable rate adjustment. Variable rate adjustments may not exceed a 12-month period, except when approved for purposes established in paragraph (b), clause (1). Variable rate adjustments approved solely on the basis of changes on a developmental disabilities screening document will end June 30, 2002.

(b) A variable rate may be recommended by the county of financial responsibility for increased needs in the following situations:

(1) a need for resources due to an individual's full or partial retirement from participation in a day training and habilitation service when the individual: (i) has reached the age of 65 or has a change in health condition that makes it difficult for the person to participate in day training and habilitation services over an extended period of time because it is medically contraindicated; and (ii) has expressed a desire for change through the developmental disability screening process under section 256B.092;

(2) a need for additional resources for intensive short-term programming which is necessary prior to an individual's discharge to a less restrictive, more integrated setting;

(3) a demonstrated medical need that significantly impacts the type or amount of services needed by the individual; or

(4) a demonstrated behavioral need that significantly impacts the type or amount of services needed by the individual.

(c) The county of financial responsibility must justify the purpose, the projected length of time, and the additional funding needed for the facility to meet the needs of the individual.

~~(d) The facility shall provide a quarterly report to the county case manager on the use of the variable rate funds and the status of the individual on whose behalf the funds were approved. The county case manager will forward the facility's report with a recommendation to the commissioner to approve or disapprove a continuation of the variable rate.~~

~~(e) Funds made available through the variable rate process that are not used by the facility to meet the needs of the individual for whom they were approved shall be returned to the state.~~

Sec. 16. Minnesota Statutes 2008, section 256D.44, subdivision 5, is amended to read:

Subd. 5. **Special needs.** In addition to the state standards of assistance established in subdivisions 1 to 4, payments are allowed for the following special needs of recipients of Minnesota supplemental aid who are not residents of a nursing home, a regional treatment center, or a group residential housing facility.

(a) The county agency shall pay a monthly allowance for medically prescribed diets if the cost of those additional dietary needs cannot be met through some other maintenance benefit. The need for special diets or dietary items must be prescribed by a licensed physician. Costs for special diets shall be determined as percentages of the allotment for a one-person household under the thrifty food plan as defined by the United States Department of Agriculture. The types of diets and the percentages of the thrifty food plan that are covered are as follows:

- (1) high protein diet, at least 80 grams daily, 25 percent of thrifty food plan;
- (2) controlled protein diet, 40 to 60 grams and requires special products, 100 percent of thrifty food plan;
- (3) controlled protein diet, less than 40 grams and requires special products, 125 percent of thrifty food plan;
- (4) low cholesterol diet, 25 percent of thrifty food plan;
- (5) high residue diet, 20 percent of thrifty food plan;
- (6) pregnancy and lactation diet, 35 percent of thrifty food plan;
- (7) gluten-free diet, 25 percent of thrifty food plan;
- (8) lactose-free diet, 25 percent of thrifty food plan;
- (9) antidumping diet, 15 percent of thrifty food plan;
- (10) hypoglycemic diet, 15 percent of thrifty food plan; or
- (11) ketogenic diet, 25 percent of thrifty food plan.

(b) Payment for nonrecurring special needs must be allowed for necessary home repairs or necessary repairs or replacement of household furniture and appliances using the payment standard of the AFDC program in effect on July 16, 1996, for these expenses, as long as other funding sources are not available.

(c) A fee for guardian or conservator service is allowed at a reasonable rate negotiated by the county or approved by the court. This rate shall not exceed five percent of the assistance unit's gross monthly income up to a maximum of \$100 per month. If the guardian or conservator is a member of the county agency staff, no fee is allowed.

(d) The county agency shall continue to pay a monthly allowance of \$68 for restaurant meals for a person who was receiving a restaurant meal allowance on June 1, 1990, and who eats two or more meals in a restaurant daily. The allowance must continue until the person has not received Minnesota supplemental aid for one full calendar month or until the person's living arrangement changes and the person no longer meets the criteria for the restaurant meal allowance, whichever occurs first.

(e) A fee of ten percent of the recipient's gross income or \$25, whichever is less, is allowed for representative payee services provided by an agency that meets the requirements under SSI regulations to charge a fee for representative payee services. This special need is available to all recipients of Minnesota supplemental aid regardless of their living arrangement.

(f)(1) Notwithstanding the language in this subdivision, an amount equal to the maximum allotment authorized by the federal Food Stamp Program for a single individual which is in effect on the first day of July of each year will be added to the standards of assistance established in subdivisions 1 to 4 for adults under the age of 65 who qualify as shelter needy and are: (i) relocating from an institution, or an adult mental health residential treatment program under section 256B.0622; (ii) eligible for the self-directed supports option as defined under section 256B.0657, subdivision 2; or (iii) home and community-based waiver recipients living in their own home or rented or leased apartment which is not owned, operated, or controlled by a provider of service not related by blood or marriage.

(2) Notwithstanding subdivision 3, paragraph (c), an individual eligible for the shelter needy benefit under this paragraph is considered a household of one. An eligible individual who receives this benefit prior to age 65 may continue to receive the benefit after the age of 65.

(3) "Shelter needy" means that the assistance unit incurs monthly shelter costs that exceed 40 percent of the assistance unit's gross income before the application of this special needs standard. "Gross income" for the purposes of this section is the applicant's or recipient's income as defined in section 256D.35, subdivision 10, or the standard specified in subdivision 3, paragraph (a) or (b), whichever is greater. A recipient of a federal or state housing subsidy, that limits shelter costs to a percentage of gross income, shall not be considered shelter needy for purposes of this paragraph.

(g) Notwithstanding this subdivision, recipients of home and community-based services may relocate to services without 24-hour supervision and receive the equivalent of the recipient's group residential housing allocation in Minnesota supplemental assistance shelter needy funding if the cost of the services and housing is equal to or less than provided to the recipient in home and community-based services and the relocation is the recipient's choice and is approved by the recipient or guardian.

(h) To access housing and services as provided in paragraph (g), the recipient may choose housing that may or may not be owned, operated, or controlled by the recipient's service provider.

(i) The provisions in paragraphs (g) and (h) are effective to June 30, 2011. The commissioner shall assess the development of publicly owned housing, other housing alternatives, and whether a public equity housing fund may be established that would maintain the state's interest, to the extent paid from group residential housing and Minnesota supplemental aid shelter needy funds in provider-owned housing so that when sold, the state would recover its share for a public equity fund to be used for future public needs under this chapter. The commissioner shall report findings and recommendations to the legislative committees and budget divisions with jurisdiction over health and human services policy and financing by January 15, 2012.

(j) In selecting prospective services needed by recipients for whom home and community-based services have been authorized, the recipient and the recipient's guardian shall first consider alternatives to home and community-based services. Minnesota supplemental aid shelter needy funding for recipients who utilize Minnesota supplemental aid shelter needy funding as provided in this section shall remain permanent unless the recipient with the recipient's guardian later chooses to access home and community-based services.

Sec. 17. **ESTABLISHING A SINGLE SET OF STANDARDS.**

(a) The commissioner of human services shall consult with disability service providers, advocates, counties, and consumer families to develop a single set of standards governing services for people with disabilities receiving services under the home and community-based waiver services program to replace all or portions of existing laws and rules including, but not limited to, data practices, licensure of facilities and providers, background studies, reporting of maltreatment of minors, reporting of maltreatment of vulnerable adults, and the psychotropic medication checklist. The standards must:

(1) enable optimum consumer choice;

(2) be consumer-driven;

(3) link services to individual needs and life goals;

(4) be based on quality assurance and individual outcomes;

(5) utilize the people closest to the recipient, who may include family, friends, and health and service providers, in conjunction with the recipient's risk management plan to assist the recipient or the recipient's guardian in making decisions that meet the recipient's needs in a cost-effective manner and assure the recipient's health and safety;

(6) utilize person-centered planning; and

(7) maximize federal financial participation.

(b) The commissioner may consult with existing stakeholder groups convened under the commissioner's authority, including the home and community-based expert services panel established by the commissioner in 2008, to meet all or some of the requirements of this section.

(c) The commissioner shall provide the reports and plans required by this section to the legislative committees and budget divisions with jurisdiction over health and human services policy and finance by January 15, 2012.

Sec. 18. **COMMON SERVICE MENU FOR HOME AND COMMUNITY-BASED WAIVER PROGRAMS.**

The commissioner of human services shall confer with representatives of recipients, advocacy groups, counties, providers, and health plans to develop and update a common service menu for home and community-based waiver programs. The commissioner may consult with existing stakeholder groups convened under the commissioner's authority to meet all or some of the requirements of this section.

Sec. 19. **INTERMEDIATE CARE FACILITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES REPORT.**

The commissioner of human services shall consult with providers and advocates of intermediate care facilities for persons with developmental disabilities to monitor progress made in response to the commissioner's December 15, 2008, report to the legislature regarding intermediate care facilities for persons with developmental disabilities.

Sec. 20. **HOUSING OPTIONS.**

The commissioner of human services, in consultation with the commissioner of administration and the Minnesota Housing Finance Agency, and representatives of counties, residents' advocacy groups, consumers of housing services, and provider agencies shall explore ways to maximize the availability and affordability of housing choices available to persons with disabilities or who need care assistance due to other health challenges. A goal shall also be to minimize state physical plant costs in order to serve more persons with appropriate program and care support. Consideration shall be given to:

- (1) improved access to rent subsidies;
- (2) use of cooperatives, land trusts, and other limited equity ownership models;
- (3) the desirability of the state acquiring an ownership interest or promoting the use of publicly owned housing;
- (4) promoting more choices in the market for accessible housing that meets the needs of persons with physical challenges; and
- (5) what consumer ownership models, if any, are appropriate.

The commissioner shall provide a written report on the findings of the evaluation of housing options to the chairs and ranking minority members of the house of representatives and senate standing committees with jurisdiction over health and human services policy and funding by December 15, 2010.

Sec. 21. **REPEALER.**

Minnesota Statutes 2008, section 256B.5013, subdivision 5, and Minnesota Rules, part 9555.6125, subpart 4, item B, are repealed."

Delete the title and insert:

"A bill for an act relating to human services; modifying programs and licensure provisions for services to persons with disabilities; allowing alternate overnight supervision technology; making changes to home and community-based waived services; requiring reports; amending Minnesota Statutes 2008, sections 245A.10, subdivisions 2, 3; 245A.11, by adding a subdivision; 245A.16, subdivisions 1, 3; 245C.04, subdivision 1; 245C.05, subdivision 4; 245C.08, subdivision 2; 245C.10, by adding a subdivision; 245C.17, by adding a subdivision; 245C.20; 245C.21, subdivision 1a; 245C.23, subdivision 2; 256B.5011, subdivision 2; 256B.5013, subdivision 1; 256D.44, subdivision 5; repealing Minnesota Statutes 2008, section 256B.5013, subdivision 5; Minnesota Rules, part 9555.6125, subpart 4, item B."

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

The report was adopted.

Pelowski from the Committee on State and Local Government Operations Reform, Technology and Elections to which was referred:

H. F. No. 1137, A bill for an act relating to elections; changing certain provisions governing ballot validity and recounts; imposing a penalty; amending Minnesota Statutes 2008, sections 204C.22, subdivision 13; 204C.35, subdivision 1, by adding a subdivision; 204C.36, subdivision 1; 206.89, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 204C.

Reported the same back with the following amendments:

Page 1, line 12, after "written" insert "completely"

Page 1, line 15, strike "Automatic" and insert "Required"

Page 2, line 16, delete everything before the period and insert "from a candidate who did not receive the greatest number of votes, but whose vote totals are within the margin provided in this paragraph, as certified by the canvassing board"

Page 4, line 11, delete "; violations; penalty"

Page 4, line 13, delete everything after the period

Page 4, delete lines 14 and 15

Page 4, line 20, delete "is" and insert "may"

Page 4, line 21, delete the new language and insert "be subject to a recount due to a difference in the vote totals between a candidate with the greatest number of votes and any other candidate that is within the margins provided in section 204C.35, subdivision 1"

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

The report was adopted.

Mariani from the Committee on K-12 Education Policy and Oversight to which was referred:

H. F. No. 1198, A bill for an act relating to education; providing for harassment, bullying, intimidation, and violence policies; amending Minnesota Statutes 2008, section 121A.03; repealing Minnesota Statutes 2008, section 121A.0695.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 121A.03, is amended to read:

121A.03 MODEL POLICY.

Subdivision 1. **Model School board policy; prohibiting harassment, bullying, intimidation, and violence.** The commissioner shall maintain and make available to school boards a model ~~sexual, religious, and racial~~ harassment, ~~bullying, intimidation,~~ and violence policy. The model policy shall address the requirements of subdivision 2, and may encourage violence prevention and character development education programs, consistent with section 120B.232, subdivision 1, to prevent and reduce policy violations.

Subd. 2. **Sexual, religious, and racial Harassment, bullying, intimidation, and violence policy.** (a) A school board must adopt a written ~~sexual, religious, and racial harassment and sexual, religious, and racial violence~~ policy ~~that conforms,~~ consistent with chapter 363A, and this section, that prohibits harassment, bullying, intimidation, and violence based on characteristics such as actual or perceived race, color, creed, religion, national origin, sex, marital

status, disability, socioeconomic status, sexual orientation, gender identity or expression, age, physical characteristics, or association with a person or group with one or more of these actual or perceived characteristics. The policy shall:

(1) address all forms of harassment, bullying, intimidation, and violence, including electronic forms and forms involving Internet use, among other forms;

(2) apply to pupils, teachers, administrators, and other school personnel;

(3) include reporting procedures; and

(4) set forth disciplinary actions that will be taken for violation of the policy.

Disciplinary actions must conform with collective bargaining agreements and sections 121A.41 to 121A.56. The policy must be conspicuously posted throughout each school building, posted on the district's Web site, given to each district employee and independent contractor at the time of entering into the person's employment contract, and included in each school's student handbook on school policies. Each school must develop a process for discussing the school's ~~sexual, religious, and racial~~ harassment, bullying, intimidation, and violence policy with students and school employees. School employees shall receive training on preventing and responding to harassment, bullying, intimidation, and violence. The training must reflect what is age-appropriate policy for the school's students.

(b) The school board policy under paragraph (a) also must address student and staff hazing and include reporting procedures and disciplinary consequences for hazing, consistent with section 121A.69.

Subd. 3. **Submission to commissioner.** Each school board must submit to the commissioner a copy of the ~~sexual, religious, and racial harassment and sexual, religious, and racial violence~~ policy the board has adopted under subdivision 2.

Sec. 2. Minnesota Statutes 2008, section 124D.10, subdivision 8, is amended to read:

Subd. 8. **State and local requirements.** (a) A charter school shall meet all applicable state and local health and safety requirements.

(b) A school sponsored by a school board may be located in any district, unless the school board of the district of the proposed location disapproves by written resolution.

(c) A charter school must be nonsectarian in its programs, admission policies, employment practices, and all other operations. A sponsor may not authorize a charter school or program that is affiliated with a nonpublic sectarian school or a religious institution.

(d) Charter schools must not be used as a method of providing education or generating revenue for students who are being home-schooled.

(e) The primary focus of a charter school must be to provide a comprehensive program of instruction for at least one grade or age group from five through 18 years of age. Instruction may be provided to people younger than five years and older than 18 years of age.

(f) A charter school may not charge tuition.

(g) A charter school is subject to and must comply with chapter 363A and ~~section~~ sections 121A.03 and 121A.04.

(h) A charter school is subject to and must comply with the Pupil Fair Dismissal Act, sections 121A.40 to 121A.56, and the Minnesota Public School Fee Law, sections 123B.34 to 123B.39.

(i) A charter school is subject to the same financial audits, audit procedures, and audit requirements as a district. Audits must be conducted in compliance with generally accepted governmental auditing standards, the Federal Single Audit Act, if applicable, and section 6.65. A charter school is subject to and must comply with sections 15.054; 118A.01; 118A.02; 118A.03; 118A.04; 118A.05; 118A.06; 123B.52, subdivision 5; 471.38; 471.391; 471.392; 471.425; 471.87; 471.88, subdivisions 1, 2, 3, 4, 5, 6, 12, 13, and 15; 471.881; and 471.89. The audit must comply with the requirements of sections 123B.75 to 123B.83, except to the extent deviations are necessary because of the program at the school. Deviations must be approved by the commissioner. The Department of Education, state auditor, or legislative auditor may conduct financial, program, or compliance audits. A charter school determined to be in statutory operating debt under sections 123B.81 to 123B.83 must submit a plan under section 123B.81, subdivision 4.

(j) A charter school is a district for the purposes of tort liability under chapter 466.

(k) A charter school must comply with sections 13.32; 120A.22, subdivision 7; 121A.75; and 260B.171, subdivisions 3 and 5.

(l) A charter school is subject to the Pledge of Allegiance requirement under section 121A.11, subdivision 3.

Sec. 3. **REPEALER.**

Minnesota Statutes 2008, section 121A.0695, is repealed."

Correct the title numbers accordingly

With the recommendation that when so amended the bill pass.

The report was adopted.

Thissen from the Committee on Health Care and Human Services Policy and Oversight to which was referred:

H. F. No. 1328, A bill for an act relating to public health; addressing youth violence as a public health problem; coordinating and aligning prevention and intervention programs addressing risk factors of youth violence; proposing coding for new law in Minnesota Statutes, chapter 145.

Reported the same back with the following amendments:

Page 1, line 24, after "agencies." insert "faith communities."

Page 2, after line 22, insert:

"(8) working with youth to prevent sexual violence;"

Page 2, line 23, delete "(8)" and insert "(9)"

Page 2, line 24, delete "(9)" and insert "(10)"

Page 2, line 33, after "support" insert ", within existing department resources."

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

The report was adopted.

Pelowski from the Committee on State and Local Government Operations Reform, Technology and Elections to which was referred:

H. F. No. 1373, A bill for an act relating to transportation; creating Minnesota Council on Transportation Access to improve availability and coordination of services to the transit public; requiring a report; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 174.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. **[174.285] MINNESOTA COUNCIL ON TRANSPORTATION ACCESS.**

Subdivision 1. Council established. A Minnesota Council on Transportation Access is established to study, evaluate, oversee, and make recommendations to improve the coordination, availability, accessibility, efficiency, cost-effectiveness, and safety of transportation services provided to the transit public. "Transit public" means those persons who utilize public transit and those who, because of mental or physical disability, income status, or age are unable to transport themselves and are dependent upon others for transportation services.

Subd. 2. Duties of council. In order to accomplish the purposes in subdivision 1, the council shall adopt a biennial work plan that must incorporate the following activities:

(1) compile information on existing transportation alternatives for the transit public, and serve as a clearinghouse for information on services, funding sources, innovations, and coordination efforts;

(2) identify best practices and strategies that have been successful in Minnesota and in other states for coordination of local, regional, state, and federal funding and services;

(3) establish statewide objectives for providing public transportation services for the transit public;

(4) identify barriers prohibiting coordination and accessibility of public transportation services and aggressively pursue the elimination of those barriers;

(5) develop and implement policies and procedures for coordinating local, regional, state, and federal funding and services for the transit public;

(6) identify stakeholders in providing services for the transit public, and seek input from them concerning barriers and appropriate strategies;

- (7) establish guidelines for developing transportation coordination plans throughout the state;
- (8) encourage all state agencies participating in the council to purchase trips within the coordinated system;
- (9) facilitate the creation and operation of transportation brokerages to match riders to the appropriate service, promote shared dispatching, compile and disseminate information on transportation options, and promote regional communication;
- (10) encourage volunteer driver programs and recommend legislation to address liability and insurance issues;
- (11) establish minimum performance standards for delivery of services;
- (12) identify methods to eliminate fraud and abuse in special transportation services;
- (13) develop a standard method for addressing liability insurance requirements for transportation services purchased, provided, or coordinated;
- (14) design and develop a contracting template for providing coordinated transportation services;
- (15) develop an interagency uniform contracting and billing and accounting system for providing coordinated transportation services;
- (16) encourage the design and development of training programs for coordinated transportation services;
- (17) encourage the use of public school transportation vehicles for the transit public;
- (18) develop an allocation methodology that equitably distributes transportation funds to compensate units of government and all entities that provide coordinated transportation services;
- (19) identify policies and necessary legislation to facilitate vehicle sharing; and
- (20) advocate aggressively for eliminating barriers to coordination, implementing coordination strategies, enacting necessary legislation, and appropriating resources to achieve the council's objectives.

Subd. 3. **Membership.** (a) The council is comprised of the following members who serve at the pleasure of the appointing authority:

- (1) two members of the senate, one from the majority party appointed by the majority leader, and one from the minority party appointed by the minority leader;
- (2) two members of the house of representatives, one appointed by the speaker of the house and one appointed by the minority leader;
- (3) one representative from the Office of the Governor;
- (4) one representative from the Council on Disability;
- (5) one representative from the Minnesota Public Transit Association;
- (6) the commissioner of transportation or a designee;

(7) the commissioner of human services or a designee;

(8) the commissioner of health or a designee;

(9) the chair of the Metropolitan Council or a designee;

(10) the commissioner of education or a designee;

(11) the commissioner of veterans affairs or a designee;

(12) one representative from the Board on Aging;

(13) the commissioner of employment and economic development or a designee;

(14) the commissioner of commerce or a designee; and

(15) the commissioner of finance or a designee.

(b) All appointments required by paragraph (a) must be completed by August 1, 2009.

(c) The commissioner of transportation or a designee shall convene the first meeting of the council within two weeks after the members have been appointed to the council. The members shall elect a chairperson from their membership at the first meeting.

(d) The Department of Transportation and the Department of Human Services shall provide necessary staff support for the council.

Subd. 4. **Report.** By January 15 of each year, beginning in 2011, the council shall report its findings, recommendations, and activities to the governor's office and to the chairs and ranking minority members of the legislative committees with jurisdiction over transportation, health, and human services, and to the legislature as provided under section 3.195.

Subd. 5. **Compensation.** Members of the committee shall receive compensation and reimbursement of expenses as provided in section 15.059, subdivision 3.

Subd. 6. **Expiration.** This section expires June 30, 2013.

Sec. 2. APPROPRIATION.

\$300,000 is appropriated from in fiscal years 2010 and 2011 to the commissioner of transportation for the administrative expenses of the council created in section 1, and for other costs relating to the preparation of the reports required under section 1, including the costs of hiring a consultant, if needed."

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

The report was adopted.

Thissen from the Committee on Health Care and Human Services Policy and Oversight to which was referred:

H. F. No. 1522, A bill for an act relating to human services; modifying provisions relating to treatment of income for determining county reimbursement for foster care, examination, or treatment; amending Minnesota Statutes 2008, section 260C.331, subdivision 1.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 256.991, is amended to read:

256.991 RULES.

The commissioner of human services may promulgate rules as necessary to implement sections 256.01, subdivision 2; ~~256.82, subdivision 3~~; 256.966, subdivision 1; 256D.03, subdivisions 3, 4, 6, and 7; and 261.23. The commissioner shall promulgate rules to establish standards and criteria for deciding which medical assistance services require prior authorization and for deciding whether a second medical opinion is required for an elective surgery. The commissioner shall promulgate rules as necessary to establish the methods and standards for determining inappropriate utilization of medical assistance services.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 2. Minnesota Statutes 2008, section 256J.21, subdivision 2, is amended to read:

Subd. 2. **Income exclusions.** The following must be excluded in determining a family's available income:

(1) payments for basic care, difficulty of care, and clothing allowances received for providing family foster care to children or adults under Minnesota Rules, parts 9555.5050 to 9555.6265, 9560.0521, and 9560.0650 to 9560.0655, and payments received and used for care and maintenance of a third-party beneficiary who is not a household member;

(2) reimbursements for employment training received through the Workforce Investment Act of 1998, United States Code, title 20, chapter 73, section 9201;

(3) reimbursement for out-of-pocket expenses incurred while performing volunteer services, jury duty, employment, or informal carpooling arrangements directly related to employment;

(4) all educational assistance, except the county agency must count graduate student teaching assistantships, fellowships, and other similar paid work as earned income and, after allowing deductions for any unmet and necessary educational expenses, shall count scholarships or grants awarded to graduate students that do not require teaching or research as unearned income;

(5) loans, regardless of purpose, from public or private lending institutions, governmental lending institutions, or governmental agencies;

(6) loans from private individuals, regardless of purpose, provided an applicant or participant documents that the lender expects repayment;

(7)(i) state income tax refunds; and

- (ii) federal income tax refunds;
 - (8)(i) federal earned income credits;
 - (ii) Minnesota working family credits;
 - (iii) state homeowners and renters credits under chapter 290A; and
 - (iv) federal or state tax rebates;
- (9) funds received for reimbursement, replacement, or rebate of personal or real property when these payments are made by public agencies, awarded by a court, solicited through public appeal, or made as a grant by a federal agency, state or local government, or disaster assistance organizations, subsequent to a presidential declaration of disaster;
- (10) the portion of an insurance settlement that is used to pay medical, funeral, and burial expenses, or to repair or replace insured property;
- (11) reimbursements for medical expenses that cannot be paid by medical assistance;
- (12) payments by a vocational rehabilitation program administered by the state under chapter 268A, except those payments that are for current living expenses;
- (13) in-kind income, including any payments directly made by a third party to a provider of goods and services;
- (14) assistance payments to correct underpayments, but only for the month in which the payment is received;
- (15) payments for short-term emergency needs under section 256J.626, subdivision 2;
- (16) funeral and cemetery payments as provided by section 256.935;
- (17) nonrecurring cash gifts of \$30 or less, not exceeding \$30 per participant in a calendar month;
- (18) any form of energy assistance payment made through Public Law 97-35, Low-Income Home Energy Assistance Act of 1981, payments made directly to energy providers by other public and private agencies, and any form of credit or rebate payment issued by energy providers;
- (19) Supplemental Security Income (SSI), including retroactive SSI payments and other income of an SSI recipient, except as described in section 256J.37, subdivision 3b;
- (20) Minnesota supplemental aid, including retroactive payments;
- (21) proceeds from the sale of real or personal property;
- (22) state adoption assistance payments under section 259.67, adoption assistance payments under chapter 256O, and up to an equal amount of county adoption assistance payments;
- (23) state-funded family subsidy program payments made under section 252.32 to help families care for children with developmental disabilities, consumer support grant funds under section 256.476, and resources and services for a disabled household member under one of the home and community-based waiver services programs under chapter 256B;

- (24) interest payments and dividends from property that is not excluded from and that does not exceed the asset limit;
- (25) rent rebates;
- (26) income earned by a minor caregiver, minor child through age 6, or a minor child who is at least a half-time student in an approved elementary or secondary education program;
- (27) income earned by a caregiver under age 20 who is at least a half-time student in an approved elementary or secondary education program;
- (28) MFIP child care payments under section 119B.05;
- (29) all other payments made through MFIP to support a caregiver's pursuit of greater economic stability;
- (30) income a participant receives related to shared living expenses;
- (31) reverse mortgages;
- (32) benefits provided by the Child Nutrition Act of 1966, United States Code, title 42, chapter 13A, sections 1771 to 1790;
- (33) benefits provided by the women, infants, and children (WIC) nutrition program, United States Code, title 42, chapter 13A, section 1786;
- (34) benefits from the National School Lunch Act, United States Code, title 42, chapter 13, sections 1751 to 1769e;
- (35) relocation assistance for displaced persons under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, United States Code, title 42, chapter 61, subchapter II, section 4636, or the National Housing Act, United States Code, title 12, chapter 13, sections 1701 to 1750jj;
- (36) benefits from the Trade Act of 1974, United States Code, title 19, chapter 12, part 2, sections 2271 to 2322;
- (37) war reparations payments to Japanese Americans and Aleuts under United States Code, title 50, sections 1989 to 1989d;
- (38) payments to veterans or their dependents as a result of legal settlements regarding Agent Orange or other chemical exposure under Public Law 101-239, section 10405, paragraph (a)(2)(E);
- (39) income that is otherwise specifically excluded from MFIP consideration in federal law, state law, or federal regulation;
- (40) security and utility deposit refunds;
- (41) American Indian tribal land settlements excluded under Public Laws 98-123, 98-124, and 99-377 to the Mississippi Band Chippewa Indians of White Earth, Leech Lake, and Mille Lacs reservations and payments to members of the White Earth Band, under United States Code, title 25, chapter 9, section 331, and chapter 16, section 1407;
- (42) all income of the minor parent's parents and stepparents when determining the grant for the minor parent in households that include a minor parent living with parents or stepparents on MFIP with other children;

(43) income of the minor parent's parents and stepparents equal to 200 percent of the federal poverty guideline for a family size not including the minor parent and the minor parent's child in households that include a minor parent living with parents or stepparents not on MFIP when determining the grant for the minor parent. The remainder of income is deemed as specified in section 256J.37, subdivision 1b;

(44) payments made to children eligible for ~~relative custody~~ guardianship assistance under ~~section 257.85~~ chapter 256O;

(45) vendor payments for goods and services made on behalf of a client unless the client has the option of receiving the payment in cash;

(46) the principal portion of a contract for deed payment; and

(47) cash payments to individuals enrolled for full-time service as a volunteer under AmeriCorps programs including AmeriCorps VISTA, AmeriCorps State, AmeriCorps National, and AmeriCorps NCCC.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 3. Minnesota Statutes 2008, section 256J.24, subdivision 3, is amended to read:

Subd. 3. **Individuals who must be excluded from an assistance unit.** (a) The following individuals who are part of the assistance unit determined under subdivision 2 are ineligible to receive MFIP:

(1) individuals who are recipients of Supplemental Security Income or Minnesota supplemental aid;

(2) individuals disqualified from the food stamp or food support program or MFIP, until the disqualification ends;

(3) children ~~on whose behalf~~ eligible for Northstar Care for Children under chapter 256O when the caregiver receives federal, state or local foster care; guardianship assistance; or adoption assistance payments are made for them, except as provided in sections 256J.13, subdivision 2, and 256J.74, subdivision 2; and

(4) children receiving ongoing monthly adoption assistance payments under section 259.67.

(b) The exclusion of a person under this subdivision does not alter the mandatory assistance unit composition.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 4. Minnesota Statutes 2008, section 256J.24, subdivision 4, is amended to read:

Subd. 4. **Individuals who may elect to be included in the assistance unit.** (a) The minor child's eligible caregiver may choose to be in the assistance unit, if the caregiver is not required to be in the assistance unit under subdivision 2. If the eligible caregiver chooses to be in the assistance unit, that person's spouse must also be in the unit.

(b) Any minor child not related as a sibling, stepsibling, or adopted sibling to the minor child in the unit, but for whom there is an eligible caregiver may elect to be in the unit.

(c) A foster care provider of a minor child who is receiving federal, state, or local foster care maintenance payments or a provider receiving benefits for a child eligible for Northstar Care for Children under chapter 256O may elect to receive MFIP if the provider meets the definition of caregiver under section 256J.08, subdivision 11. If

the provider chooses to receive MFIP, the spouse of the provider must also be included in the assistance unit with the provider. The provider and spouse are eligible for ~~assistance~~ MFIP even if the only minor child living in the provider's home is receiving foster care maintenance payments or benefits from Northstar Care for Children.

(d) The adult caregiver or caregivers of a minor parent are eligible to be a separate assistance unit from the minor parent and the minor parent's child when:

- (1) the adult caregiver or caregivers have no other minor children in the household;
- (2) the minor parent and the minor parent's child are living together with the adult caregiver or caregivers; and
- (3) the minor parent and the minor parent's child receive MFIP, or would be eligible to receive MFIP, if they were not receiving SSI benefits.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 5. **[256N.01] PUBLIC POLICY.**

Subdivision 1. **General.** The legislature hereby declares that the public policy of the state is:

- (1) first and foremost, children should be safe from harm and protected from abuse and neglect;
- (2) children should be maintained safely in their homes whenever possible and appropriate;
- (3) when the ability of parents to keep their children safe is compromised it is in the public interest to intervene early and provide services that promote parents' protective capacities, mitigate risks of harm, and strengthen and support parents in their caregiving roles;
- (4) children should grow up in safe, permanent, and nurturing homes and, when it is not possible for their parents to provide safety and permanency, alternative permanency options must be made available to children as quickly as possible;
- (5) whenever possible, alternative permanency options should be with children's relatives or kin in order to maintain family relationships and preserve connections with their communities and culture; and
- (6) once permanency is achieved, children and their families should receive the services and supports necessary to maintain safe, stable, and permanent homes.

Subd. 2. **Racial disparities in child welfare.** It is further the policy of the state to reduce racial disparities and disproportionality that exists in the child welfare system by:

- (1) identifying and addressing structural factors contributing to inequities in outcomes;
- (2) identifying and implementing promising and evidence-based strategies to reduce racial disparities in treatment and outcomes;
- (3) using cultural values, beliefs, and practices of families, communities, and tribes to shape family assessment, case planning, case service design, and case decision-making processes;
- (4) using placement and reunification strategies that maintain, honor, and support relationships and connections between parents, siblings, children, kin, and significant others, giving priority to kinship placements when placement is necessary; and

(5) supporting families in the context of their communities and tribes so as to safely divert them away from the child welfare system, whenever possible.

Sec. 6. **[256N.02] PUBLIC PRIORITIES.**

A broad continuum of services and a reform of practice are necessary across Minnesota to keep children safe from abuse and neglect, prevent the trauma associated with removing a child from their family home, and provide families with the necessary supports and services to protect and nurture their children. Successful implementation of state policy must result in improved outcomes for children and families and must be measured by:

(1) improved timeliness to initial investigations;

(2) increased monthly caseworker visits with children in out-of-home placement;

(3) reduced out-of-home placements;

(4) reduced re-entry;

(5) reduced recidivism;

(6) reduced number of children aging out of foster care without achieving permanency;

(7) improved rate of relative care;

(8) improved stability in foster care; and

(9) reduced racial and ethnic disparities and disproportionality.

Sec. 7. **[256O.001] CITATION.**

Sections 256O.001 to 256O.270 may be cited as the "Northstar Care for Children Act." Sections 256O.001 to 256O.270 establish Northstar Care for Children, which authorizes certain benefits to support children in need who are served by the Minnesota child welfare system and who are the responsibility of the state of Minnesota, local county social service agencies, or tribal social service agencies under section 256.01, subdivision 14b. A child eligible for the benefit has experienced a child welfare intervention that has resulted in the child being placed away from the child's parents' care and is in the permanent care of relatives through a transfer of permanent legal and physical custody, or in the permanent care of adoptive parents.

Sec. 8. **[256O.01] PUBLIC POLICY.**

(a) The legislature hereby declares that the public policy of this state is to keep children safe from harm and to ensure that when children suffer harmful or injurious experiences in their lives, appropriate services are immediately available to keep them safe.

(b) Children do best in permanent, safe, nurturing homes with long-term relationships with adults. Whenever safely possible, children are best served when they can be nurtured and raised by their parents. Where services cannot be provided to allow a child to remain safely at home, an out-of-home placement may be required. When this occurs, reunification should be sought if it can be accomplished safely. When it is not possible for parents to provide safety and permanency for their children, an alternative permanent home must quickly be made available to the child, drawing from kinship sources whenever possible.

(c) Minnesota understands the importance of having a comprehensive approach to temporary out-of-home care and to permanent homes for children who cannot be reunited with their families. It is critical that stable benefits be available to caregivers to ensure that the child's needs can be met whether the child's situation and best interests call for transfer of permanent legal and physical custody to a relative or adoption. Northstar Care for Children focuses on the child's needs and strengths, and the actual level of care provided by the caregiver, without consideration for the type of placement setting. In this way, caregivers are not faced with the burden of making specific long-term decisions based upon competing financial incentives.

Sec. 9. **[256O.02] DEFINITIONS.**

Subdivision 1. **Scope.** For the purposes of sections 256O.001 to 256O.270, the terms defined in this section have the meanings given them.

Subd. 2. **Adoption assistance.** "Adoption assistance" means financial support, medical coverage, or both, provided under agreement with the legally responsible agency and the commissioner to the parents of an adoptive child whose special needs would otherwise make it difficult to place the child for adoption, to assist with the cost of caring for the child.

Subd. 3. **Assessment.** "Assessment" means the process under section 256O.240 by which is determined the benefits an eligible child may receive under section 256O.250.

Subd. 4. **At-risk child.** "At-risk child" means a child who does not have a documented disability but who is at risk of developing a physical, mental, emotional, or behavioral disability based on being related within the first or second degree to persons who have an inheritable physical, mental, emotional, or behavioral disabling condition, or from a background which has the potential to cause the child to develop a physical, mental, emotional, or behavioral disability. The disability that the child is at risk of developing must be likely to manifest during childhood. A high-risk child under section 259.67 is considered an at-risk child.

Subd. 5. **Basic rate.** "Basic rate" means the maintenance payment made on behalf of a child to support the costs caregivers incur to meet a child's needs consistent with the care parents customarily provide, including: food, clothing, shelter, daily supervision, school supplies, child's personal incidentals, reasonable travel to the child's home for visitation, and transportation needs associated with providing the listed items.

Subd. 6. **Caregiver.** "Caregiver" means the tribe, relative custodian, or the adoptive parent who has legally adopted a child.

Subd. 7. **Child-placing agency.** "Child-placing agency" means an agency licensed under section 245A.03, subdivision 1, clauses (2) and (3).

Subd. 8. **Commissioner.** "Commissioner" means the commissioner of human services.

Subd. 9. **County board.** "County board" means the board of county commissioners in each county.

Subd. 10. **Disability.** "Disability" means a professionally documented physical, mental, emotional, or behavioral impairment that substantially limits one or more major life activity. Major life activities include, but are not limited to: thinking, walking, hearing, breathing, working, seeing, speaking, communicating, learning, developing and maintaining healthy relationships, safely caring for oneself, and performing manual tasks. The nature, duration, and severity of the impairment must be used in determining if the limitation is substantial.

Subd. 11. **Foster care.** "Foster care" means foster care as described either in section 260B.007, subdivision 7, or 260C.007, subdivision 18.

Subd. 12. **Guardianship assistance.** "Guardianship assistance" means financial support, medical coverage, or both, provided under agreement with the legally responsible agency and the commissioner to a relative who has received permanent legal and physical custody of a child, to assist with the cost of caring for the child.

Subd. 13. **Human services board.** "Human services board" means a board established under section 402.02; Laws 1974, chapter 293; or Laws 1976, chapter 340.

Subd. 14. **Legally responsible agency.** "Legally responsible agency" means the Minnesota agency that is assigned responsibility for placement, care, and supervision of the child through a court order, voluntary placement agreement, or voluntary relinquishment. These agencies include both local social service agencies under section 393.07 and tribal social service agencies authorized in section 256.01, subdivision 14b, and Minnesota tribes when legal responsibility is transferred to the tribal social service agency through a Minnesota district court order.

Subd. 15. **Maintenance payments.** "Maintenance payments" means the basic rate plus any supplemental difficulty of care rate under Northstar Care for Children. It specifically does not include the cost of initial clothing allowance, payment for social services, or administrative payments to a child-placing agency.

Subd. 16. **Permanent legal and physical custody.** "Permanent legal and physical custody" means permanent legal and physical custody ordered by a Minnesota juvenile court under section 260C.201, subdivision 11, or for children under tribal court jurisdiction, similar provision under tribal code which means that the individual responsible for the child has responsibility for the protection, education, care, and control of the child and decision making on behalf of the child.

Subd. 17. **Reassessment.** "Reassessment" means an update of the previous assessment through the process under section 256O.240 for a child who has been continuously eligible for this benefit.

Subd. 18. **Relative.** "Relative" as described in section 260C.007, subdivision 27, means a person related to the child by blood, marriage, or adoption, or an individual who is an important friend with whom the child has resided or had significant contact. For an Indian child, relative includes members of the extended family as defined by the law or custom of the Indian child's tribe or, in the absence of law or custom, nieces, nephews, or first or second cousins, as provided in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1903.

Subd. 19. **Relative custodian.** "Relative custodian" means a person to whom permanent legal and physical custody of a child has been transferred under section 260C.201, subdivision 11, or for children under tribal court jurisdiction, a similar provision under tribal code which means that the individual responsible for the child has responsibility for the protection, education, care, and control of the child and decision making on behalf of the child.

Subd. 20. **Supplemental difficulty of care rate.** "Supplemental difficulty of care rate" means the supplemental rating, if any, as determined by the legally responsible agency or the state, based upon an assessment under section 256O.240. The supplemental rate supports activities consistent with the care a parent would provide a child with special needs and not the equivalent of a purchased service. The rate considers the capacity and intensity of the activities associated with parenting duties provided in the home to nurture the child, preserve the child's connections, and support the child's functioning in the home and community.

Sec. 10. **[256O.200] NORTHSTAR CARE FOR CHILDREN.**

Subdivision 1. **Eligibility.** A child is eligible for Northstar Care for Children if the child is eligible for:

(1) guardianship assistance under section 256O.220; or

(2) adoption assistance under section 256O.230.

Subd. 2. **Assessments and agreements.** A child eligible for Northstar Care for Children shall receive an assessment under section 256O.240. For a child eligible for guardianship assistance or adoption assistance, negotiations with caregivers and the development of a written, binding agreement must be conducted under section 256O.240.

Subd. 3. **Benefits and payments.** A child eligible for Northstar Care for Children is entitled to benefits specified in section 256O.250, based primarily on assessments, negotiations, and agreements under section 256O.240. Although paid to the caregiver, these benefits are considered benefits of the child rather than of the caregiver.

Subd. 4. **Shared cost of care.** The cost of Northstar Care for Children must be shared among the federal government, state, counties of financial responsibility, and certain tribes as specified in section 256O.260.

Subd. 5. **Administration and appeals.** The commissioner and legally responsible agency shall administer Northstar Care for Children according to section 256O.270. The notification and fair hearing process is defined in section 256O.270.

Subd. 6. **Transition.** Provisions for the transition to Northstar Care for Children are specified in sections 256O.240, subdivision 13, and 256O.270, subdivisions 2 and 7 to 10. Additional provisions for children in relative custody assistance under section 257.85 are specified in section 256O.220, subdivision 8; and for children in adoption assistance under section 259.67 are specified in section 256O.230, subdivision 14.

Sec. 11. **[256O.220] GUARDIANSHIP ASSISTANCE ELIGIBILITY.**

Subdivision 1. **General eligibility requirements.** (a) To be eligible for guardianship assistance, there must be a judicial determination under section 260C.201, subdivision 11, paragraph (c), that a transfer of permanent legal and physical custody to a relative or, for a child under tribal jurisdiction, a similar provision under tribal code which means that the individual responsible for the child has responsibility for the protection, education, care, and control of the child and decision making on behalf of the child, is in the child's best interest. Additionally, a child must:

(1) have been removed from the child's home pursuant to a voluntary placement agreement or court order;

(2)(i) have resided in foster care for at least six consecutive months in the home of the prospective relative custodian; or

(ii) have received an exemption from the requirement in item (i) from the court based on a determination that an expedited move to permanency is in the child's best interest;

(3) meet the judicial determination regarding permanency requirements in subdivision 2;

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

(5) have been consulted regarding the proposed transfer of permanent legal and physical custody to a relative, if the child has attained 14 years of age or is expected to attain 14 years of age prior to the transfer of permanent legal and physical custody.

(b) In addition to the requirements in paragraph (a), the child's prospective relative custodian or custodians must meet the applicable background study requirements in subdivision 4.

(c) The legally responsible agency shall make a title IV-E guardianship assistance eligibility determination for each child. To be eligible for title IV-E guardianship assistance, a child must also meet any additional criteria specified in section 473(d) of the Social Security Act. A child who meets all eligibility criteria, except those specific to title IV-E guardianship assistance, is entitled to guardianship assistance paid through state funds.

Subd. 2. **Judicial determinations regarding permanency.** To be eligible for guardianship assistance, the following judicial determinations regarding permanency must be made for the child prior to the transfer of permanent legal and physical custody:

(1) a judicial determination that reunification and adoption are not appropriate permanency options for the child; and

(2) a judicial determination that the child demonstrates a strong attachment to the prospective relative custodian and the relative custodian has a strong commitment to caring permanently for the child.

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

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

Subd. 4. **Background study.** (a) A background study must be completed on each prospective relative custodian. If a background study on the prospective relative custodian was previously completed under section 245A.04 for the purposes of foster care licensure, that background study may be used for the purposes of this section, provided that the background study is current at the time of the application for guardianship assistance. If the background study reveals:

(1) a felony conviction at any time for child abuse or neglect;

(2) spousal abuse;

(3) a crime against children, including child pornography;

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

(5) a felony conviction within the past five years for physical assault, battery, or a drug-related offense.

the prospective relative custodian is prohibited from receiving title IV-E guardianship assistance payments on behalf of an otherwise eligible child.

(b) An otherwise eligible prospective relative custodian who possesses one of the felony convictions in paragraph (a) may receive state-funded guardianship assistance payments on behalf of an otherwise eligible child if the court has made a judicial determination that:

(1) the legally responsible agency has thoroughly reviewed the felony conviction and has considered the impact, if any, that the conviction may have on the child's safety, well-being, and permanency;

(2) the conviction likely does not pose a current or future safety risk to the child;

(3) there is no other available permanency resource that is appropriate for the child; and

(4) the proposed transfer of permanent legal and physical custody is in the child's best interest.

Subd. 5. **Residency.** A child placed in the state from another state or a tribe outside the state is not eligible for state-funded guardianship assistance through the state. A child placed in the state from another state or a tribe outside of the state may be eligible for title IV-E guardianship assistance through the state if all eligibility factors are met and there is no state agency that has responsibility for placement and care of the child.

Subd. 6. **Exclusions.** A child with a guardianship assistance agreement under Northstar Care for Children is not eligible for the MFIP child-only grant under section 256J.88.

Subd. 7. **Termination.** (a) A guardianship assistance agreement terminates in any of the following circumstances:

(1) the child reaches the age of 18;

(2) the commissioner determines that the relative custodian is no longer legally responsible for support of the child;

(3) the commissioner determines that the relative custodian is no longer providing financial support to the child;

(4) death of the child; or

(5) the relative custodian requests termination of the guardianship assistance agreement in writing.

(b) A relative custodian is considered no longer legally responsible for support of the child in any of the following circumstances:

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

(2) death of the relative custodian;

(3) enlistment of the child in the military;

(4) marriage of the child; or

(5) emancipation of the child through legal action of another state.

Subd. 8. **Transitioning in from pre-2011.** Effective December 31, 2010, all relative custody assistance agreements under section 257.85 must terminate. A child who has a relative custody assistance agreement executed on the child's behalf under section 257.85 on or before November 24, 2010, is eligible for Northstar Care for Children beginning January 1, 2011, provided that all parties have signed the guardianship assistance agreement on or before that date. All eligible children shall be assessed according to section 256O.240 and transitioned into Northstar Care for Children according to the process in section 256O.270. Effective November 25, 2010, a child who meets the eligibility criteria for guardianship assistance in subdivision 1, may have a guardianship assistance agreement negotiated on the child's behalf according to section 256O.240, and the effective date of the agreement is January 1, 2011, or the date of the court order transferring permanent legal and physical custody, whichever is later.

Sec. 12. **[2560.230] ADOPTION ASSISTANCE ELIGIBILITY.**

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

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

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

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

(ii) have had foster care payments paid on the child's behalf while in out-of-home placement through the county or tribe, and be either under the guardianship of the commissioner or under the jurisdiction of a Minnesota tribe and adoption according to tribal law is the child's documented permanency plan.

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

(c) The legally responsible agency shall make a title IV-E adoption assistance eligibility determination for each child. A child who meets all eligibility criteria, except those specific to title IV-E adoption assistance, shall receive adoption assistance paid through state funds.

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

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

(1) a court-ordered termination of parental rights;

(2) a petition to terminate parental rights;

(3) a consent to adopt accepted by the court under sections 260C.201, subdivision 11, and 259.24;

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

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

(6) the death of the legal parent.

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

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

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

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

(4) adoptive placement in the home of a parent who previously adopted another child born of the same mother or father for whom they receive adoption assistance; or

(5) documentation that the child is an at-risk child according to subdivision 7.

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

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

(ii) a determination by the commissioner that such a search would not be in the best interests of the child; and

(2) a written statement from the identified prospective adoptive parents that they are either unwilling or unable to adopt the child without adoption assistance.

(e) To meet the requirement of a documented search for an appropriate adoptive placement under paragraph (d), clause (1), item (i), the placing agency minimally shall:

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

(2) for an Indian child covered by the Indian Child Welfare Act, comply with the placement preferences identified in the Indian Child Welfare Act and the Minnesota Indian Family Preservation Act; and

(3) review all families approved for adoption who are associated with the placing agency.

If the review of families associated with the placing agency results in the identification of an appropriate adoptive placement for the child, the placing agency must provide documentation of the placement decision to the commissioner as part of the application for adoption assistance. If two or more appropriate families are not approved or available within the placing agency, the agency shall locate additional prospective adoptive families by registering the child with the state adoption exchange, as defined in section 259.75. If registration with the state adoption exchange does not result in an appropriate family for the child, the agency shall employ other recruitment methods as outlined in recruitment policies and procedures prescribed by the commissioner, to meet this requirement.

(f) The requirement for a documented search for an appropriate adoptive placement including a review of all families approved for adoption that are associated with the placing agency, registration of the child with the state adoption exchange, and additional recruitment methods must be waived if:

(1) the child is being adopted by a relative;

(2) the child is being adopted by foster parents with whom the child has developed significant emotional ties while in the foster parents' care as a foster child; or

(3) the child is being adopted by a family that previously adopted a child of the same mother or father;

and the court determines that adoption by the identified family is in the child's best interest. For an Indian child covered by the Indian Child Welfare Act, a waiver must not be granted unless the placing agency has complied with the placement preferences identified in the Indian Child Welfare Act and the Minnesota Indian Family Preservation Act.

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

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

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

Subd. 4. **Background study.** (a) A background study under section 259.41 must be completed on each prospective adoptive parent. If the background study reveals:

(1) a felony conviction at any time for child abuse or neglect;

(2) spousal abuse;

(3) a crime against children, including child pornography;

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

(5) a felony conviction within the past five years for physical assault, battery, or a drug-related offense.

the adoptive parent is prohibited from receiving title IV-E adoption assistance on behalf of an otherwise eligible child.

(b) A prospective adoptive parent who possesses one of the felony convictions in paragraph (a) may receive state-funded adoption assistance on behalf of an otherwise eligible child if the court has made a judicial determination that:

(1) the legally responsible agency has thoroughly reviewed the felony conviction and has considered the impact, if any, that the conviction may have on the child's safety, well-being, and permanency;

(2) the conviction likely does not pose a current or future safety risk to the child;

(3) there is no other available permanency resource that is appropriate for the child; and

(4) the adoptive placement is in the child's best interest.

Subd. 5. **Residency.** A child placed in the state from another state or a tribe outside the state is not eligible for state-funded adoption assistance through the state. A child placed in the state from another state or a tribe outside of the state may be eligible for title IV-E adoption assistance through the state of Minnesota if all eligibility factors are met and there is no state agency that has responsibility for placement and care of the child.

Subd. 6. **Exceptions and exclusions.** Payments for adoption assistance must not be made to a biological parent of the child or a stepparent who adopts the child. Direct placement adoptions under section 259.47 or the equivalent in tribal code are not eligible for state-funded adoption assistance. A child who is adopted by the child's legal custodian or guardian is not eligible for state-funded adoption assistance. A child who is adopted by the child's legal custodian or guardian may be eligible for title IV-E adoption assistance if all required eligibility factors are met. International adoptions are not eligible for adoption assistance unless the adopted child has been placed into foster care through the public child welfare system subsequent to the failure of the adoption, and all required eligibility factors are met.

Subd. 7. **Documentation.** (a) Documentation must be provided to verify that a child meets the special needs criteria in subdivision 2.

(b) Documentation of the disability is limited to evidence deemed appropriate by the commissioner.

(c) To qualify as being an at-risk child, the placing agency shall provide to the commissioner one or more of the following:

(1) documented information in a county or tribal social service department record or court record that a relative within the first or second degree has a medical diagnosis or medical history, including diagnosis of a significant mental health or chemical dependency issue, which could result in the child's development of a disability during childhood;

(2) documented information that while in the public child welfare system, the child has experienced three or more placements with extended family or different foster homes that could affect the normal attachment process;

(3) documented evidence in a county or tribal social service department record that the child experienced neglect in the first three years of life or sustained physical injury, sexual abuse, or physical disease that could have a long-term effect on physical, emotional or mental development; or

(4) documented evidence in a medical or hospital record, law enforcement record, county or tribal social service department record, court record, or record of an agency under a contract with a county social service agency or the state to provide child welfare services that the birth mother used drugs or alcohol during pregnancy which could later result in the child's development of a disability.

Subd. 8. **Termination.** (a) An adoption assistance agreement terminates in any of the following circumstances:

(1) the child attains the age of 18, unless an extension according to subdivisions 10 to 13 are applied for by the adoptive parents and granted by the commissioner;

(2) the commissioner determines that the adoptive parents are no longer legally responsible for support of the child;

(3) the commissioner determines that the adoptive parents are no longer providing financial support to the child;

(4) death of the child; or

(5) the adoptive parents request termination of the adoption assistance agreement in writing.

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

- (1) parental rights to the child are legally terminated;
- (2) permanent legal and physical custody or guardianship of the child is transferred to another individual;
- (3) death of the adoptive parent;
- (4) enlistment of the child in the military;
- (5) marriage of the child; or
- (6) emancipation of the child through legal action of another state.

Subd. 9. Death of adoptive parent or adoption dissolution. (a) The adoption assistance agreement ends upon death or termination of parental rights of both of the adoptive parents, in the case of a two-parent adoption, or the sole adoptive parent, in the case of a single-parent adoption, but the child maintains eligibility for state-funded or title IV-E adoption assistance in a subsequent adoption if the following criteria are met:

- (1) the child is determined to be a child with special needs as described in subdivision 2;
- (2) the subsequent adoptive parents reside in the state of Minnesota; and
- (3) no state agency outside the state has responsibility for placement and care of the child at the time of the subsequent adoption.

(b) According to federal regulations, if the child had a title IV-E adoption assistance agreement prior to the death of the adoptive parents or dissolution of the adoption, and a state agency outside of the state of Minnesota has responsibility for placement and care of the child at the time of the subsequent adoption, the state of Minnesota is not responsible for determining whether the child meets the definition of special needs, entering into the adoption assistance agreement, and making any adoption assistance payments outlined in the new agreement.

(c) According to federal regulations, if the child had a title IV-E adoption assistance agreement prior to the death of the adoptive parents or dissolution of the adoption, the subsequent adoptive parents reside outside of the state of Minnesota, and no state agency has responsibility for placement and care of the child at the time of the subsequent adoption, the state of Minnesota is not responsible for determining whether the child meets the definition of special needs, entering into the adoption assistance agreement, and making any adoption assistance payments outlined in the new agreement.

Subd. 10. Extension, past age 18. Under certain limited circumstances, a child may qualify for extension of the adoption assistance agreement beyond the date the child attains age 18. An application for extension must be completed and submitted by the adoptive parent at least 90 days prior to the date the child attains age 18, unless the child's adoption is scheduled to finalize less than 90 days prior to that date, in which case the application for extension must be completed and submitted with the adoption assistance application. The application for extension shall be made on forms established by the commissioner and shall include documentation of eligibility as specified by the commissioner.

Subd. 11. Extension based on a continuing physical or mental disability. (a) Extensions based on a child's continuing physical or mental disability must be applied for prior to the date the child attains age 18. The commissioner must not grant an extension on this basis if an extension based on continued enrollment in a secondary education program or being a child whose adoption finalized after age 16 was previously granted for the child.

(b) A child is eligible for extension of the adoption assistance agreement to the date the child attains age 21 if the following criteria are met:

(1) the child has a mental or physical disability upon which eligibility for adoption assistance was based which warrants the continuation of assistance;

(2) the child is unable to obtain self-sustaining employment due to the aforementioned mental or physical disability; and

(3) the child needs significantly more care and support than what is typical for an individual of the same age.

Subd. 12. Extension based on continued enrollment in a secondary education program. (a) If a child does not qualify for extension based on a continuing physical or mental disability, or a parent chooses not to apply for an extension on that basis, the adoptive parents may make an application for continuation of adoption assistance based on enrollment in a secondary education program.

(b) If a child is enrolled full time in a secondary education program or a program leading to an equivalent credential, the child is eligible for extension to the expected graduation date or the date the child attains age 19, whichever is earlier. If a child receives a school-based extension and at any time ceases to be enrolled in a full-time secondary education program or a program leading to an equivalent credential, the adoptive parents must notify the commissioner and the agreement must terminate.

(c) Extensions based on continuation in a secondary education program must be paid from state funds only, unless the child meets the extension criteria in subdivision 13.

Subd. 13. Extension for children whose adoption finalized after age 16. A child who attained the age of 16 prior to finalization of the child's adoption is eligible for extension of the adoption assistance agreement to the date the child attains age 21 if the child is:

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

(2) enrolled in an institution which provides postsecondary or vocational education;

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

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

(5) incapable of doing any of the activities described in clauses (1) to (4) due to a medical condition, which incapability is supported by regularly updated information in the case plan of the child.

Subd. 14. Transitioning in from pre-2011. A child who has an adoption assistance agreement executed on their behalf under section 259.67 on or before November 24, 2010, is eligible for Northstar Care for Children beginning January 1, 2011, provided that all parties have signed the renegotiated adoption assistance agreement on or before that date. The adoption assistance agreement of eligible children whose adoptive parents decide to opt in to Northstar Care for Children must be renegotiated according to the process in section 256O.270. All eligible children whose adoptive parents decide to renegotiate their adoption assistance agreement under Northstar Care for Children must be assessed according to section 256O.240 and then transitioned into Northstar Care for Children according to the process in section 256O.270. Effective November 25, 2010, a child who meets the eligibility criteria for adoption assistance in subdivision 1 may have an adoption assistance agreement negotiated on their behalf according to section 256O.240, and the effective date of the agreement is January 1, 2011, or the date of the court order finalizing the adoption, whichever is later.

Sec. 13. **[256O.240] ASSESSMENTS AND AGREEMENTS.**

Subdivision 1. **Assessment.** Every child eligible under sections 256O.220 and 256O.230 must be assessed to determine the benefits the child may receive under section 256O.250 according to the tool, process, and requirements specified in subdivision 2. A child eligible for guardianship assistance under section 256O.220 or adoption assistance under section 256O.230 who is determined to be an at-risk child must be assessed at level A under section 256O.250, subdivision 1. All other children shall be assessed at the basic level, level B, or one of ten supplemental difficulty of care levels, levels C to L.

Subd. 2. **Commissioner to establish the assessment tool, process, and requirements.** Consistent with sections 256O.001 to 256O.270, the commissioner shall establish the tool to be used and the process to be followed, including appropriate documentation and other requirements, when conducting the assessment of children entering or continuing in Northstar Care for Children. The assessment tool must take into consideration the needs of the child and the ability of the caregiver to meet the child's needs.

Subd. 3. **Child care component of the assessment.** (a) The assessment tool established under subdivision 2 must include consideration of the caregiver's need for child care according to this subdivision. Prior to including consideration of the caregiver's need for child care on the child's assessment, prospective adoptive parents or relative custodians shall apply to the child care assistance program under chapter 119B.

(b) The child's assessment must include consideration of the caregiver's need for child care if all the following criteria are met:

- (1) the child has not attained the age of 13;
- (2) all available adult caregivers are employed or attending training or educational programs;
- (3) the caregiver has applied for the child care assistance program under paragraph (a); and
- (4) child care assistance under chapter 119B is not received for the child.

Consideration of the caregiver's need for child care may be included on the child's assessment for caregivers who are wait-listed for child care assistance or are eligible for child care assistance but choose not to receive it.

(c) The level determined by the balance of the assessment must be adjusted based on the number of hours of child care needed each week due to employment or attending a training or educational program as follows:

(1) less than ten hours or if the caregiver is participating in the child care assistance program under chapter 119B, no adjustment;

- (2) ten to 19 hours, increase one level;
- (3) 20 to 29 hours, increase two levels;
- (4) 30 to 39 hours, increase three levels; and
- (5) 40 or more hours, increase four levels.

(d) When the child attains the age of 13, the level shall revert to the level assessed for the child prior to any consideration of the caregiver's need for child care.

Subd. 4. **Timing of initial assessment.** For an eligible child entering Northstar Care for Children who is not part of the transition group under subdivision 13, the initial assessment must be completed prior to the establishment of a guardianship assistance or adoption assistance agreement on behalf of the child, if an initial assessment is required under subdivision 5.

Subd. 5. **Completing the assessment.** (a) The assessment must be completed in consultation with the child's caregiver. Face-to-face contact with the caregiver is not required to complete the assessment.

(b) For children eligible for guardianship assistance under section 256O.220, a new assessment is required as part of the negotiation of the guardianship assistance agreement if:

(1) the child is determined to be an at-risk child;

(2) the child was not placed in foster care with the proposed relative custodian immediately prior to the negotiation of the guardianship assistance agreement under subdivision 10; or

(3) any requirement for reassessment under subdivision 7 is met.

If a new assessment is required prior to the effective date of the guardianship assistance agreement, the new assessment must be completed by the county of financial responsibility or, for children in the American Indian Child Welfare Initiative, the responsible tribal social service agency authorized in section 256.01, subdivision 14b. If reassessment is required after the effective date of the guardianship assistance agreement, the new assessment must be completed by the commissioner or the commissioner's designee. If the proposed relative custodian is unable or unwilling to cooperate with the assessment process, the child must be assessed at the basic level, level B under section 256O.250, subdivision 3, unless the child is known to be an at-risk child, in which case, the child must be assessed at level A under section 256O.250, subdivision 1. Notice to the proposed relative custodian must be provided as specified in subdivision 9.

(c) For children eligible for adoption assistance under section 256O.230, a new assessment is required as part of the negotiation of the adoption assistance agreement if:

(1) the child is determined to be an at-risk child;

(2) the child was not placed in foster care with the prospective adoptive parent immediately prior to the negotiation of the adoption assistance agreement under subdivision 10; or

(3) any requirement for reassessment under subdivision 7 is met.

If a new assessment is required prior to the effective date of the adoption assistance agreement, it must be completed by the county of financial responsibility or, for children in the American Indian Child Welfare Initiative, the responsible tribal social service agency authorized in section 256.01, subdivision 14b. If there is no county of financial responsibility and the child is not in the American Indian Child Welfare Initiative, or the financially responsible agency is not a county social service or tribal agency in the state, the assessment must be completed by the agency designated by the commissioner. If reassessment is required after the effective date of the adoption assistance agreement, it must be completed by the commissioner or the commissioner's designee. If the prospective adoptive parent is unable or unwilling to cooperate with the assessment process, the child must be assessed at the basic level, level B under section 256O.250, subdivision 3, unless the child is known to be an at-risk child, in which case, the child shall be assessed at level A under section 256O.250, subdivision 1. Notice to the prospective adoptive parent must be provided as specified in subdivision 9.

Subd. 6. **Approval of assessments and reassessments.** Each legally responsible agency shall designate one or more staff to examine and approve completed assessments and reassessments. The staff person approving the assessments and reassessments must not be the case manager or staff member completing the forms. The new rate is effective the calendar month that the assessment is approved or the effective date of the agreement, whichever is later.

Subd. 7. **Timing of reassessments and requests for reassessments.** For an eligible child, reassessments must be completed within 30 days of the request of the commissioner, or the request of the caregiver under subdivision 8.

Subd. 8. **Caregiver requests for reassessments.** (a) For an eligible child, a caregiver may initiate a reassessment request in writing to the commissioner, or the commissioner's designee for adoption assistance and guardianship assistance cases. The written request must include the reason for the request and the name, address, and contact information of the caregivers. For an eligible child with a guardianship assistance or adoption assistance agreement, the caregiver may request a reassessment if at least six months have elapsed since any previously requested review.

(b) A caregiver may request a reassessment of an at-risk child for whom a guardianship assistance or adoption assistance agreement has been executed if the caregiver has written professional documentation that the potential disability upon which eligibility for the agreement was based has manifested itself.

(c) If the reassessment cannot be completed within 30 days of the caregiver's request, the agency responsible for reassessment shall notify the caregiver of the reason for the delay and a reasonable estimate of when the reassessment can be completed.

(d) If the child's caregiver is unable or unwilling to cooperate with the reassessment, the child must be assessed at level B under section 256O.250, subdivision 3, unless the child has an adoption assistance or guardianship assistance agreement in place and is known to be an at-risk child, in which case, the child shall be assessed at level A under section 256O.250, subdivision 1. Within 60 days of the caregiver demonstrating they are able or willing to cooperate with the assessment or reassessment process, the reassessment for the child must be completed.

Subd. 9. **Notice for caregiver.** (a) The agency responsible for completing the assessment shall provide the child's caregiver with written notice of the initial assessment or reassessment.

(b) Initial assessment notices must be sent within 15 days of completion of the initial assessment and must minimally include the following:

(1) a summary of the completed child's individual assessment used to determine the rating;

(2) statement of rating and benefit level;

(3) statement of the circumstances under which the agency shall reassess the child;

(4) procedure to seek reassessment;

(5) notice that the caregiver has the right to a fair hearing review of the assessment and how to request a fair hearing, consistent with section 256.045, subdivision 3; and

(6) name, telephone number, and, if available, electronic address of a contact person at the responsible agency or state.

(c) Reassessment notices must be sent within 15 days of the completion of the reassessment and must minimally include the following:

- (1) a summary of the completed child's individual assessment used to determine the new rating;
- (2) any change in rating and its effective date;
- (3) procedure to seek reassessment;
- (4) notice that if a change in rating results in a reduction of benefits, the caregiver has the right to a fair hearing review of the assessment and how to request a fair hearing consistent with section 256.045, subdivision 3;
- (5) notice that a caregiver who requests a fair hearing of the reassessed rating within ten days may continue at the current rate pending the hearing, but the agency may recover any overpayment; and
- (6) name, telephone number, and, if available, electronic address of a contact person at the responsible agency or state.

Subd. 10. **Agreements.** (a) In order to receive guardianship assistance or adoption assistance benefits, a written, binding agreement on a form approved by the commissioner must be established prior to finalization of the adoption or a transfer of permanent legal and physical custody. The agreement must be negotiated with the caregivers according to subdivision 11. The caregivers and the commissioner or the commissioner's designee must sign the agreement. A copy of the signed agreement must be given to each party. Termination or disruption of the preadoptive placement prior to finalization or the foster care placement preceding assignment of custody makes the agreement with that family void.

- (b) The agreement must specify the following:
 - (1) duration of the agreement;
 - (2) the nature and amount of any payment, services, and assistance to be provided under such agreement;
 - (3) the child's eligibility for Medicaid services;
 - (4) the terms of the payment;
 - (5) eligibility for reimbursement of nonrecurring expenses associated with adopting or obtaining permanent legal and physical custody of the child, to the extent that the total cost does not exceed \$2,000 per child;
 - (6) that the agreement must remain in effect regardless of the state of which the adoptive parents or relative custodians are residents at any given time;
 - (7) provisions for modification of the terms of the agreement; and
 - (8) the effective date of the agreement.
- (c) The effective date of the guardianship assistance agreement is the date of the court order that transfers permanent legal and physical custody to the relative.
- (d)(1) For a child who receives Supplementary Security Income (SSI), Retirement, Survivors, and Disability Insurance (RSDI), veteran's benefits, railroad retirement benefits, or black lung benefits, the effective date of the adoption assistance agreement is the date that the adoption is finalized.

(2) For a child who does not receive SSI, RSDI, veteran's benefits, railroad retirement benefits, or black lung benefits, and who has been in the prospective adoptive parents' home as a foster child for at least six consecutive months prior to adoption placement, the effective date of the agreement is the date of adoptive placement or the date that the agreement is signed by all parties, whichever is later.

(3) For a child who does not receive SSI, RSDI, veteran's benefits, railroad retirement benefits, or black lung benefits, and who has been in the prospective adoptive parents' home as a foster child for less than six consecutive months prior to adoptive placement, the effective date of the agreement is the date that the child has resided in the prospective adoptive parents' home as a foster child for at least six consecutive months or the date the adoption is finalized, whichever is earlier.

Subd. 11. **Negotiation of the agreement.** (a) A monthly payment is provided as part of the adoption assistance or guardianship assistance agreement to support the care of children who have manifested special needs. The amount of the payment made on behalf of children eligible for guardianship assistance or adoption assistance is determined through agreement between the relative custodian or the adoptive parent and the commissioner or the commissioner's designee, using the assessment tool established by the commissioner in subdivision 2 and the associated benefit and payments in section 256O.250. The monthly payment under a guardianship assistance agreement or adoption assistance agreement may be negotiated up to the monthly benefit level under foster care. In no case may the amount of the payment under a guardianship assistance agreement or adoption assistance agreement exceed the foster care maintenance payment which would have been paid during the month if the child with respect to whom the guardianship assistance or adoption assistance payment is made had been in a foster family home in the state. The income of the relative custodian or adoptive parent must not be taken into consideration when determining eligibility for guardianship assistance or adoption assistance or the amount of the payments under section 256O.250. With the concurrence of the relative custodian or adoptive parent, the amount of the payment may be adjusted periodically using the assessment tool established by the commissioner in subdivision 2 and the agreement renegotiated under subdivision 12 when there is a change in the child's needs or the family's circumstances.

(b) The guardianship assistance or adoption assistance agreement of a child who is identified as an at-risk child must not include a monthly payment unless and until the potential disability manifests itself, as documented by an appropriate professional, and the commissioner authorizes commencement of payment by modifying the agreement accordingly. A relative custodian or adoptive parent of an at-risk child with a guardianship assistance or adoption assistance agreement may request a reassessment of the child under subdivision 8 and renegotiation of the guardianship assistance or adoption assistance agreement under subdivision 12 to include a monthly payment, if the caregiver has written professional documentation that the potential disability upon which eligibility for the agreement was based has manifested itself. Documentation of the disability must be limited to evidence deemed appropriate by the commissioner.

(c)(1) The initial amount of the monthly guardianship assistance payment must be equivalent to the foster care rate in effect at the time that the agreement is signed less any offsets in section 256O.250, subdivision 8, or a lesser negotiated amount if agreed to by the prospective relative custodian and specified in that agreement, unless the child is identified as an at-risk child.

(2) An at-risk child must be assigned level A according to section 256O.250 and there shall be no monthly guardianship assistance payment unless and until the potential disability manifests itself, as documented by an appropriate professional, and the commissioner authorizes commencement of payment by modifying the agreement accordingly.

(d)(1) For a child in foster care with the prospective adoptive parent immediately prior to adoptive placement, the initial amount of the monthly adoption assistance payment must be equivalent to the foster care rate in effect at the time that the agreement is signed less any offsets in section 256O.250, subdivision 8, or a lesser negotiated amount if agreed to by the prospective adoptive parents and specified in that agreement, unless the child is identified as an at-risk child.

(2) An at-risk child must be assigned level A according to section 256O.250 and there must be no monthly adoption assistance payment unless and until the potential disability manifests itself, as documented by an appropriate professional, and the commissioner authorizes commencement of payment by modifying the agreement accordingly.

(3) For children who are in the guardianship assistance program immediately prior to adoptive placement, the initial amount of the adoption assistance payment must be equivalent to the guardianship assistance payment in effect at the time that the adoption assistance agreement is signed or a lesser amount if agreed to by the prospective adoptive parent and specified in that agreement.

(4) For children who are not in foster care placement or the guardianship assistance program immediately prior to adoptive placement or negotiation of the adoption assistance agreement, the initial amount of the adoption assistance agreement must be determined using the assessment tool and process in this section and the corresponding payment amount in section 256O.250.

Subd. 12. Renegotiation of the agreement. (a) A relative custodian or adoptive parent of a child with a guardianship assistance or adoption assistance agreement may request renegotiation of the agreement when there is a change in the needs of the child or in the family's circumstances. When a relative custodian or adoptive parent requests renegotiation of the agreement, a reassessment of the child must be completed consistent with section 256O.240. If the reassessment indicates that the child's level has changed, the commissioner or the commissioner's designee and the caregiver shall renegotiate the agreement to include a payment with the level determined through the reassessment process. The agreement must not be renegotiated unless the commissioner and the caregiver mutually agree to the changes. The effective date of any renegotiated agreement must be determined by the commissioner.

(b) A relative custodian or adoptive parent of an at-risk child with a guardianship assistance or adoption assistance agreement may request renegotiation of the agreement to include a monthly payment, if the caregiver has written professional documentation that the potential disability upon which eligibility for the agreement was based has manifested itself. Documentation of the disability must be limited to evidence deemed appropriate by the commissioner. Prior to renegotiating the agreement, a reassessment of the child must be conducted according to subdivision 8. The reassessment must be used to renegotiate the agreement to include an appropriate monthly payment. The agreement shall not be renegotiated unless the commissioner and the caregiver mutually agree to the changes. The effective date of any renegotiated agreement shall be determined by the commissioner.

Subd. 13. Transition assessments. (a) For a child who might transition into Northstar Care for Children, section 256O.220, subdivision 8; or 256O.230, subdivision 14, initial transition assessments must be completed between May 1, 2010, and December 31, 2010.

(b) Children with relative custody assistance agreements under section 257.85 that are effective prior to May 1, 2010, shall have initial transition assessments completed between May 1 and December 31, 2010. Children with relative custody assistance agreements between May 1, 2010, and November 24, 2010, shall have an initial transition assessment completed as the agreement is being established in conjunction with the supplemental maintenance needs assessment and other required relative custody assistance paperwork under section 257.85.

(c) Children with adoption assistance agreements negotiated under section 259.67 and submitted to the commissioner for review and approval on or before April 30, 2010, who might transition into Northstar Care for Children, shall have initial transition assessments completed by August 31, 2010. Children with adoption assistance agreements negotiated under section 259.67 and submitted to the commissioner for review and approval between May 1, 2010, and November 24, 2010, shall have an initial transition assessment completed in conjunction with the supplemental maintenance needs assessment and other required adoption assistance paperwork under section 259.67.

(d) If the child's caregiver is unable or unwilling to cooperate with the initial transition assessment process, the child shall be assessed at the basic level, level B under section 256O.250, subdivision 3, unless the child is known to be an at-risk child, in which case the child shall be assessed at level A under section 256O.250, subdivision 1. Within 60 days of the caregiver indicating they are able or willing to cooperate with the assessment process, the commissioner or the commissioner's designee shall complete a reassessment for the child.

(e) If the child's caregiver cannot be located to complete the initial transition assessment process according to the time frames outlined in this section, the child shall be assessed at the basic level, level B under section 256O.250, subdivision 3, unless the child is known to be an at-risk child, in which case the child shall be assessed at level A under section 256O.250, subdivision 1. Within 60 days of locating the caregiver, the commissioner or the commissioner's designee shall complete a reassessment for the child.

Sec. 14. **[256O.250] BENEFITS AND PAYMENTS.**

Subdivision 1. **Benefits.** There are three potential benefits available under Northstar Care for Children: medical assistance, basic payment, and supplemental difficulty of care payment. An eligible child receives medical assistance under subdivision 2. An eligible child receives the basic payment under subdivision 3, except for those assigned level A because they are determined to be at-risk children in guardianship assistance or adoption assistance. An eligible child may receive an additional supplemental difficulty of care payment under subdivision 4, as determined by the assessment under section 256O.240.

Subd. 2. **Medical assistance.** Eligibility for medical assistance under this chapter continues to be determined according to section 256B.055.

Subd. 3. **Basic monthly rate.** For the period January 1, 2011, to June 30, 2012, the basic monthly rate is according to the following schedule:

<u>Ages 0-5</u>	<u>\$500 per month</u>
<u>Ages 6-12</u>	<u>\$600 per month</u>
<u>Ages 13 and older</u>	<u>\$713 per month.</u>

Subd. 4. **Difficulty of care supplemental monthly rate.** For the period January 1, 2011, to June 30, 2012, the difficulty of care supplemental monthly rate is according to the following schedule:

<u>level B</u>	<u>none</u>
<u>level C</u>	<u>\$55 per month</u>
<u>level D</u>	<u>\$110 per month</u>
<u>level E</u>	<u>\$165 per month</u>
<u>level F</u>	<u>\$220 per month</u>
<u>level G</u>	<u>\$275 per month</u>
<u>level H</u>	<u>\$330 per month</u>
<u>level I</u>	<u>\$385 per month</u>
<u>level J</u>	<u>\$440 per month</u>
<u>level K</u>	<u>\$495 per month</u>
<u>level L</u>	<u>\$550 per month.</u>

A child assigned level B is still eligible for basic monthly rate under subdivision 3.

Subd. 5. **Daily rates.** The commissioner shall establish prorated daily rates to the nearest cent for the monthly rates under subdivisions 3 and 4. Daily rates must be routinely used when a partial month is involved for guardianship assistance and adoption assistance.

Subd. 6. **Revision.** By April 1, 2013, for fiscal year 2013, and by each subsequent April 1 for each subsequent fiscal year, the commissioner shall review and revise the rates under subdivisions 3, 4, and 5 based on United States Department of Agriculture Estimates of the Cost of Raising a Child, published by the United States Department of Agriculture, Agricultural Resources Service, Publication 1411. The revision must be the average percentage by which costs increase for the age ranges represented in the United States Department of Agriculture Estimates of the Cost of Raising a Child. The monthly rates must be revised to the nearest dollar and the daily rates to the nearest cent.

Subd. 7. **Home and vehicle modifications.** A child who is eligible for an adoption assistance agreement based on the child's physical disability or a child who is eligible for a guardianship assistance agreement who possesses a physical disability must have reimbursement of home and vehicle modifications necessary to accommodate the child's physical disability included as part of the negotiation of the agreement under section 256O.240, subdivision 11. The total of all modifications must not exceed \$25,000 and the modifications must be requested during the first six months that the adoption assistance or guardianship assistance agreement is in effect. The type and cost of each modification must be preapproved by the commissioner. The type of home and vehicle modifications is limited to those specified by the commissioner. The commissioner shall ensure that the modifications are necessary to incorporate the child into the family and that the cost is reasonable. Application for and reimbursement of modifications must be completed according to a process specified by the commissioner.

Subd. 8. **Child income or income attributable to the child.** (a) A monthly adoption assistance or guardianship assistance payment must be considered income and resource attributable to the child and must be inalienable by any assignment or transfer and exempt from garnishment under the laws of the state.

(b) Consideration of income and resources attributable to the child must be part of the negotiation process in section 256O.240, subdivision 11. In some circumstances, the receipt of other income on behalf of the child may impact the amount of the monthly payment received by the adoptive parent or relative custodian on behalf of the child through Northstar Care for Children. Supplemental Security Income (SSI), Retirement, Survivors, and Disability Insurance (RSDI), veteran's benefits, railroad retirement benefits, and black lung benefits are considered income and resources attributable to the child.

Subd. 9. **Treatment of RSDI, veteran's benefits, railroad retirement benefits, and black lung benefits.** (a) If it is anticipated that a child will be eligible to receive RSDI, veteran's benefits, railroad retirement benefits, or black lung benefits after finalization of the adoption or assignment of permanent legal and physical custody, the permanent caregiver shall apply to be the payee of those benefits on the child's behalf. The monthly amount of the other benefits must be considered an offset to the amount of the payment the child is determined eligible for under Northstar Care for Children.

(b) If a child becomes eligible for RSDI, veteran's benefits, railroad retirement benefits, or black lung benefits after the initial amount of the payment under Northstar Care for Children is finalized, the permanent caregiver shall contact the commissioner to renegotiate the payment under Northstar Care for Children. The monthly amount of the other benefits must be considered an offset to the amount of the payment the child is determined eligible for under Northstar Care for Children.

(c) If a child ceases to be eligible for RSDI, veteran's benefits, railroad retirement benefits, or black lung benefits after the initial amount of the payment under Northstar Care for Children is finalized, the permanent caregiver shall contact the commissioner to renegotiate the payment under Northstar Care for Children. The monthly amount of the payment under Northstar Care for Children must be the amount the child was determined to be eligible for prior to consideration of any offset.

(d) If the monthly payment received on behalf of the child under RSDI, veteran's benefits, railroad retirement benefits, or black lung benefits changes after the adoption assistance or guardianship assistance agreement is finalized, the permanent caregiver shall notify the commissioner as to the new monthly payment amount, regardless of the amount of the change in payment. If the monthly payment changes by \$75 or more, even if the change occurs incrementally over the duration of the term of the adoption assistance or guardianship assistance agreement, the monthly payment under Northstar Care for Children must be renegotiated to reflect the amount of the increase or decrease in the offset amount. Any subsequent change to the payment must be reported and handled in the same manner. A change of monthly payments of less than \$75 is not a permissible reason to renegotiate the adoption assistance or guardianship assistance agreement under section 256O.240, subdivision 12.

Subd. 10. **Treatment of child support and MFIP.** (a) In cases where the child qualifies for Northstar Care for Children by meeting the adoption assistance eligibility criteria or the guardianship assistance eligibility criteria, any court-ordered child support must not be considered income attributable to the child and must have no impact on the monthly payment.

(b) Consistent with section 256J.24, children eligible for and receiving a payment from Northstar Care for Children are excluded from a MFIP assistance unit.

Subd. 11. **Payments.** (a) Payments to caregivers under Northstar Care for Children must be made monthly.

(b) The commissioner shall pay caregivers for eligible children in guardianship assistance and adoption assistance. Payments must commence when the commissioner receives the required documentation from the court, the legally responsible agency, or the caregiver. In guardianship assistance or adoption assistance cases, monthly payments must be prorated according to subdivision 5 based on the effective date of the agreement.

Subd. 12. **Effect of benefit on other aid.** Payments received under this section shall not be considered as income for child care assistance under chapter 119B or any other financial benefit. Consistent with section 256J.24, all children receiving a maintenance payment under Northstar Care for Children are excluded from any MFIP assistance unit.

Subd. 13. **Overpayments.** The commissioner has the authority to collect any amount of adoption assistance and guardianship assistance paid to a caregiver in excess of the payment due. Payments covered by this subdivision include basic maintenance needs payments, supplemental difficulty of care payments, and reimbursement of home and vehicle modifications under subdivision 7. Prior to any collection, the commissioner or the commissioner's designee shall notify the caregiver in writing, including:

(1) the amount of the overpayment and an explanation of the cause of overpayment;

(2) clarification of the corrected amount;

(3) a statement of the legal authority for the decision;

(4) information about how the caregiver can correct the overpayment;

(5) if repayment is required, when the payment is due and a person to contact to review a repayment plan;

(6) a statement that the caregiver is entitled to a fair hearing review by the department; and

(7) the procedure for seeking the review in clause (6).

Subd. 14. **Payee.** For adoption assistance and guardianship assistance cases, the payment may only be made to the adoptive parent or relative custodian specified on the agreement. If there is more than one adoptive parent or relative custodian, both parties must be listed as the payee unless otherwise specified in writing according to policies outlined by the commissioner. In the event of divorce or separation of the caregivers, a change of payee may be made in writing according to policies outlined by the commissioner. If both caregivers are in agreement as to the change, it may be made according to a process outlined by the commissioner. If there is not agreement as to the change, a court order indicating the party who is to receive the payment is needed before a change can be processed. If the change of payee is disputed, the commissioner may withhold the payment until agreement is reached. A noncustodial caregiver may request notice in writing of review, modification, or termination of the adoption assistance or guardianship assistance agreement. In the event of the death of a payee, a change of payee consistent with sections 256O.220 and 256O.230 may be made in writing according to policies outlined by the commissioner.

Subd. 15. **Notification of change.** (a) Parents or relative custodians who have an adoption assistance agreement or guardianship assistance agreement in place shall keep the agency administering the program informed of the parent's or custodian's address and circumstances which would make them ineligible for the payments or eligible for the payments in a different amount.

(b) For the duration of the agreement, the adoptive parent or relative custodian agrees to notify the agency administering the program in writing within 30 days of the following changes:

(1) change in the family's address;

(2) change in the legal custody status of the child;

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

(4) date of termination of the parental rights of the adoptive parent, transfer of permanent legal and physical custody to another person, or other determination that the adoptive parent or relative custodian is no longer legally responsible for support of the child;

(5) date the adoptive parent or relative custodian is no longer providing support to the child;

(6) date of death of the child;

(7) date of death of the adoptive parent or relative custodian;

(8) date the child enlists in the military;

(9) date of marriage of the child;

(10) date the child becomes an emancipated minor through legal action of another state;

(11) separation or divorce of the adoptive parent or relative custodian;

(12) change of the caregiver's employment or educational enrollment status, if the child has not attained age 13 and the child care component of the assessment under section 256O.240, subdivision 2, was used to determine the assessment level; and

(13) residence of the child outside the home for a period of more than 30 consecutive days.

Subd. 16. **Termination notice for caregiver.** The responsible agency must provide a child's caregiver written notice of termination of payment. Termination notices must be sent at least 15 days before the final payment or in the case of an unplanned termination, the notice is sent within three days of the end of the payment. The written notice must minimally include the following:

(1) the date payment will end;

(2) the reason payments will end and the event that is the basis to terminate payment;

(3) a statement that the provider is entitled to a fair hearing review by the department consistent with section 256.045, subdivision 3;

(4) the procedure to request a fair hearing; and

(5) name, telephone number, and, if available, an electronic contact address of a contact person at the county or state.

Sec. 15. [256O.260] FEDERAL SHARE, STATE SHARE, LOCAL SHARE.

Subdivision 1. **Federal share.** For a child who qualifies for guardianship assistance or adoption assistance, the county of financial responsibility or, for children in the American Indian Child Welfare Initiative, the responsible tribal social service agency authorized in section 256.01, subdivision 14b, shall use the eligibility requirements outlined in section 473 of the Social Security Act. In each case, the agency paying the maintenance payments must be reimbursed for the costs from the federal money available for this purpose.

Subd. 2. **State share.** The commissioner shall pay the state share of the maintenance payments as determined under subdivision 4, and an identical share of the pre-Northstar Care adoption assistance program under section 259.67. The commissioner may transfer funds into the account if a deficit occurs.

Subd. 3. **Local share.** The county of financial responsibility under section 256G.02 or tribal social service agency authorized in section 256.01, subdivision 14b, at the time of finalization of the agreement for guardianship assistance or adoption assistance, shall pay the local share of the maintenance payments as determined under subdivision 4, and an identical share of the pre-Northstar Care adoption assistance program under section 259.67. The county of financial responsibility under section 256G.02 or tribal social service agency authorized in section 256.01, subdivision 14b, shall pay the entire cost of any initial clothing allowance, child-placing agency administrative payments, or other support services it authorizes, except as provided under other provisions of law. In cases of federally required adoption assistance where there is no county of financial responsibility, or, for children in the American Indian Child Welfare Initiative, the responsible tribal social service agency authorized in section 256.01, subdivision 14b, as provided in section 256O.240, subdivision 5, the commissioner shall pay the local share.

Subd. 4. **Nonfederal share.** The commissioner shall establish a percentage share of the maintenance payments, reduced by federal reimbursements under title IV-E of the Social Security Act, to be paid by the state and to be paid by the county of financial responsibility under section 256G.02 or tribal social service agency authorized in section 256.01, subdivision 14b. These state and local shares shall initially be calculated based on the ratio of the average appropriate expenditures made by the state and all counties and tribal social service agencies authorized in section 256.01, subdivision 14b, during state fiscal years 2008, 2009, and 2010. For purposes of this calculation, appropriate expenditures for the state must include adoption assistance and relative custody assistance, reduced by federal reimbursements. For each of the periods January 1, 2011, to June 30, 2012, and fiscal years 2013 and 2014, the commissioner shall adjust this initial percentage of state and local shares to reflect the relative expenditure trends during state fiscal years 2008, 2009, and 2010. The fiscal year 2014 set of percentages must be used for all subsequent years.

Subd. 5. **Adjustments for proportionate shares among legally responsible agencies.** For children who transition into Northstar Care for Children under section 256O.270, subdivision 7, and for children on the pre-Northstar Care adoption assistance program under section 259.67, the commissioner shall adjust the expenditures by each county or tribal social service agency so that its relative share is proportional to its foster care expenditures as determined under subdivision 4 for state fiscal years 2008, 2009, and 2010 compared with similar costs of all county or tribal social service agencies.

Sec. 16. **[256O.270] ADMINISTRATION.**

Subdivision 1. **Responsibilities.** (a) Subject to commissioner approval, the legally responsible agency shall determine the eligibility for Northstar Care for Children for children in guardianship assistance under section 256O.220 and children in adoption assistance under section 256O.230, and for those children determined eligible, shall further determine each child's eligibility for title IV-E of the Social Security Act.

(b) The legally responsible agency is responsible for the administration of Northstar Care for Children and for assisting the commissioner with the administration of Northstar Care for Children for children in guardianship assistance and adoption assistance by conducting assessments, reassessments, negotiations, and other activities as specified by the commissioner under subdivision 2.

Subd. 2. **Procedures, requirements, and deadlines.** The commissioner shall specify procedures, requirements, and deadlines for the administration of Northstar Care for Children according to sections 256O.001 to 256O.270, including for transitioning children into Northstar Care for Children under subdivision 7. The commissioner shall periodically review all such procedures, requirements, and deadlines, including the assessment tool and process under section 256O.240, in consultation with counties, tribes, and representatives of caregivers and may alter them as needed.

Subd. 3. **Administration of title IV-E programs.** The title IV-E guardianship assistance and adoption assistance programs shall operate within the statutes and rules set forth by the federal government in the Social Security Act and Code of Federal Regulations.

Subd. 4. **Reporting.** The commissioner shall specify required fiscal and statistical reports under section 256.01, subdivision 2, paragraph (q), and other reports as necessary.

Subd. 5. **Promotion of programs.** The commissioner or the commissioner's designee shall actively seek ways to promote the guardianship assistance and adoption assistance programs, including informing prospective relative custodians of eligible children of the availability of guardianship assistance and prospective adoptive parents of eligible children under the commissioner's guardianship of the availability of adoption assistance. All families who adopt children under the commissioner's guardianship must be informed as to the adoption tax credit.

Subd. 6. **Appeals and fair hearings.** (a) A caregiver has the right to appeal to the commissioner pursuant to section 256.045 when eligibility for Northstar Care for Children is denied, and when payment or the agreement for eligible child is modified or terminated.

(b) A relative custodian or adoptive parent has additional rights to appeal to the commissioner under section 256.045. The rights include when the commissioner terminates or modifies the guardianship assistance or adoption assistance agreement or when the commissioner denies an application for guardianship assistance or adoption assistance. A prospective relative custodian or adoptive parent who disagrees with a decision by the commissioner prior to transfer of permanent legal and physical custody or finalization of the adoption may request review of the decision by the commissioner or may appeal the decision under section 256.045. A guardianship assistance or adoption assistance agreement must be signed and in effect prior to the court order that transfers permanent legal and physical custody or the adoption finalization, however in some cases, there may be extenuating circumstances as

to why an agreement was not entered into prior to the finalization of permanency for the child. Caregivers who believe that extenuating circumstances exist in the case of the caregiver's child may request a fair hearing. Caregivers have the responsibility of proving that extenuating circumstances exist. Caregivers are required to provide written documentation of each eligibility criterion at the fair hearing. Examples of extenuating circumstances include: relevant facts regarding the child were known by the placing agency and not presented to the caregiver prior to transfer of permanent legal and physical custody or finalization of the adoption, failure by the commissioner or the commissioner's designee to advise potential caregivers about the availability of guardianship assistance or adoption assistance for children in the state foster care system. If an appeals judge finds through the fair hearing process that extenuating circumstances existed and that the child met all eligibility criteria at the time the transfer of permanent legal and physical custody was ordered or the adoption was finalized, the effective date and any associated federal financial participation must be retroactive to the date of the request for a fair hearing.

Subd. 7. Transition; timelines; assessments. (a) All eligible children shall participate in an initial assessment under section 256O.240, subdivision 3.

(b) All children in relative custody assistance or adoption assistance are eligible for Northstar Care for Children as specified in sections 256O.220 and 256O.230. All children receiving relative custody assistance under section 257.85 on December 31, 2010, must be transitioned into Northstar Care for Children as of January 1, 2011. Children in adoption assistance under section 259.67 on December 31, 2010, whose caregivers sign no later than November 24, 2010, an agreement to transition to Northstar Care for Children as provided under sections 256O.230 and 256O.240 must be added to Northstar Care for Children as of January 1, 2011. A child receiving adoption assistance under section 259.67 whose caregivers sign an agreement to transition to Northstar Care for Children as provided under sections 256O.230 and 256O.240 between December 1, 2010, and March 31, 2011, must be added to Northstar Care for Children for the first calendar month at least 31 calendar days after the date of the signing of the agreement. A child receiving adoption assistance under section 259.67 whose caregivers do not sign an agreement to transition to Northstar Care for Children by March 31, 2011, must remain on the pre-Northstar Care adoption assistance program under section 259.67 until the child is no longer eligible for the program.

Subd. 8. Transition; distribution of program information. Between May 1, 2010, and June 30, 2010, all relative custodians with executed or signed relative custody assistance agreements, adoptive parents with executed or signed adoption assistance agreements, and preadoptive parents with a preadoptive placement in the parents' home shall receive written information about Northstar Care for Children. Relative custodians who sign a relative custody assistance agreement and prospective adoptive parents who sign an adoption assistance agreement subsequent to June 30, 2010, shall receive written information about Northstar Care for Children no later than when the relative custody assistance agreement or the adoption assistance agreement is signed by the caregiver.

(1) The agency responsible for providing the relative custody assistance payment shall mail, electronically distribute, or personally provide relative custodians with relative custody assistance agreements with written information about Northstar Care for Children when the relative custodians' mail or email address is known. The responsible social service agency shall make reasonable efforts to locate relative custodians with signed or executed relative custody assistance agreements whose mail or email address is known.

(2) For cases where the adoption assistance agreement is executed or submitted to the commissioner for review and approval prior to May 1, 2010, the commissioner shall mail or electronically distribute information about Northstar Care for Children to the adoptive parent. The commissioner shall make reasonable efforts to locate the adoptive parent whose mail or email address is unknown. For cases where the adoption assistance agreement is executed or submitted to the commissioner for review on or after May 1, 2010, and on or before November 24, 2010, the responsible social service agency shall mail, electronically distribute, or personally provide preadoptive parents with written information about Northstar Care for Children.

(3) Information must minimally include a summary of the provisions of the new program, an overview of the assessment process, the transition time frame, and actions required by the relative custodian or adoptive parent during the transition period, including the procedure to opt in to Northstar Care for Children and renegotiate the adoption assistance agreement for adoption assistance cases.

Subd. 9. Transition; renegotiation of adoption assistance agreements. Adoptive parents shall provide written notice to the commissioner of the adoptive parents' intent to renegotiate their adoption assistance program or remain on the pre-Northstar Care adoption assistance program according to section 259.67 within 60 days of receiving the written notice in subdivision 8. The commissioner may extend this time frame if it is determined that the adoptive parent has good cause to warrant extension of this consideration period. If adoptive parents decide to opt in to Northstar Care for Children, the adoptive parents' adoption assistance agreement must be renegotiated according to section 256O.240, subdivision 10. If an adoptive parent would like to opt in to Northstar Care for Children, but does not believe that the assessment under section 256O.240 was completed accurately, the adoptive parent shall indicate this in writing to the commissioner and must be given an extension of the consideration period while a reassessment is completed. The commissioner may not extend the time frame to renegotiate adoption assistance agreements after March 31, 2011. All adoption assistance agreements under Northstar Care for Children for children transitioning from the adoption assistance program under section 259.67 must be renegotiated and signed by all parties no later than March 31, 2011. The commissioner may establish additional requirements or deadlines for implementing the transition.

Subd. 10. Effective date of payment rates. The new rates for payment under Northstar Care for Children must be determined under section 256O.250 and effective according to the timelines in subdivision 7, paragraph (b).

Subd. 11. Purchase of child-specific adoption services. The commissioner may reimburse the placing agency for appropriate adoption services for children eligible under section 259.67, subdivision 35.

Sec. 17. Minnesota Statutes 2008, section 257.85, subdivision 2, is amended to read:

Subd. 2. **Scope.** The provisions of this section apply to those situations in which the legal and physical custody of a child is established with a relative or important friend with whom the child has resided or had significant contact according to section 260C.201, subdivision 11, by a district court order issued on or after July 1, 1997, and on or before November 24, 2010, or a tribal court order issued on or after July 1, 2005, and on or before November 24, 2010, when the child has been removed from the care of the parent by previous district or tribal court order.

EFFECTIVE DATE. This section is effective August 1, 2009.

Sec. 18. Minnesota Statutes 2008, section 257.85, subdivision 5, is amended to read:

Subd. 5. **Relative custody assistance agreement.** (a) A relative custody assistance agreement will not be effective, unless it is signed by the local agency and the relative custodian no later than 30 days after the date of the order establishing permanent legal and physical custody, and on or before November 24, 2010, except that a local agency may enter into a relative custody assistance agreement with a relative custodian more than 30 days after the date of the order if it certifies that the delay in entering the agreement was through no fault of the relative custodian and the agreement is signed and in effect on or before November 24, 2010. There must be a separate agreement for each child for whom the relative custodian is receiving relative custody assistance.

(b) Regardless of when the relative custody assistance agreement is signed by the local agency and relative custodian, the effective date of the agreement shall be the date of the order establishing permanent legal and physical custody.

(c) If MFIP is not the applicable program for a child at the time that a relative custody assistance agreement is entered on behalf of the child, when MFIP becomes the applicable program, if the relative custodian had been receiving custody assistance payments calculated based upon a different program, the amount of relative custody assistance payment under subdivision 7 shall be recalculated under the Minnesota family investment program.

(d) The relative custody assistance agreement shall be in a form specified by the commissioner and shall include provisions relating to the following:

(1) the responsibilities of all parties to the agreement;

(2) the payment terms, including the financial circumstances of the relative custodian, the needs of the child, the amount and calculation of the relative custody assistance payments, and that the amount of the payments shall be reevaluated annually;

(3) the effective date of the agreement, which shall also be the anniversary date for the purpose of submitting the annual affidavit under subdivision 8;

(4) that failure to submit the affidavit as required by subdivision 8 will be grounds for terminating the agreement;

(5) the agreement's expected duration, which shall not extend beyond the child's eighteenth birthday;

(6) any specific known circumstances that could cause the agreement or payments to be modified, reduced, or terminated and the relative custodian's appeal rights under subdivision 9;

(7) that the relative custodian must notify the local agency within 30 days of any of the following:

(i) a change in the child's status;

(ii) a change in the relationship between the relative custodian and the child;

(iii) a change in composition or level of income of the relative custodian's family;

(iv) a change in eligibility or receipt of benefits under MFIP, or other assistance program; and

(v) any other change that could affect eligibility for or amount of relative custody assistance;

(8) that failure to provide notice of a change as required by clause (7) will be grounds for terminating the agreement;

(9) that the amount of relative custody assistance is subject to the availability of state funds to reimburse the local agency making the payments;

(10) that the relative custodian may choose to temporarily stop receiving payments under the agreement at any time by providing 30 days' notice to the local agency and may choose to begin receiving payments again by providing the same notice but any payments the relative custodian chooses not to receive are forfeit; and

(11) that the local agency will continue to be responsible for making relative custody assistance payments under the agreement regardless of the relative custodian's place of residence.

EFFECTIVE DATE. This section is effective August 1, 2009.

Sec. 19. Minnesota Statutes 2008, section 257.85, subdivision 6, is amended to read:

Subd. 6. **Eligibility criteria.** (a) A local agency shall enter into a relative custody assistance agreement under subdivision 5 if it certifies that the following criteria are met:

(1) the juvenile court has determined or is expected to determine that the child, under the former or current custody of the local agency, cannot return to the home of the child's parents;

(2) the court, upon determining that it is in the child's best interests, has issued or is expected to issue an order transferring permanent legal and physical custody of the child; and

(3) the child either:

(i) is a member of a sibling group to be placed together; or

(ii) has a physical, mental, emotional, or behavioral disability that will require financial support.

When the local agency bases its certification that the criteria in clause (1) or (2) are met upon the expectation that the juvenile court will take a certain action, the relative custody assistance agreement does not become effective until and unless the court acts as expected.

(b) After November 24, 2010, no new relative custody assistance agreements shall be executed. Agreements that were signed on or before November 24, 2010, and were not in effect because the proposed transfer of permanent legal and physical custody of the child did not occur on or before November 24, 2010, must be renegotiated according to the terms of Northstar Care for Children in chapter 256O.

EFFECTIVE DATE. This section is effective August 1, 2009.

Sec. 20. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 11. **Purpose and general eligibility requirements.** (a) The purpose of the adoption assistance program is to help make adoption possible for children who would otherwise remain in foster care.

(b) To be eligible for adoption assistance, a child must:

(1) be determined to be a child with special needs, according to subdivision 12;

(2) meet the applicable citizenship and immigration requirements in subdivision 13; and

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

(ii) have had foster care payments paid on the child's behalf while in out-of-home placement through the county or tribe, and be either under the guardianship of the commissioner or under the jurisdiction of a Minnesota tribe, with adoption in accordance with tribal law as the child's documented permanency plan.

(c) In addition to the requirements in paragraph (b), the child's adoptive parents must meet the applicable background study requirements outlined in subdivision 14.

(d) The legally responsible agency shall make a title IV-E adoption assistance eligibility determination for each child. Children who meet all eligibility criteria except those specific to title IV-E adoption assistance shall receive adoption assistance paid through state funds.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 21. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 12. **Special needs determination.** (a) A child is considered a child with special needs under this section if all of the requirements in paragraphs (b) to (g) are met.

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

(1) a court-ordered termination of parental rights;

(2) a petition to terminate parental rights;

(3) a consent to adopt accepted by the court under sections 260C.201, subdivision 11, and 259.24;

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

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

(6) the death of the legal parent.

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

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

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

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

(4) adoptive placement in the home of a parent who previously adopted another child born of the same mother or father for whom they receive adoption assistance; or

(5) documentation that the child is a high-risk child, according to subdivision 17.

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

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

(ii) a determination by the commissioner that such a search would not be in the best interests of the child; and

(2) a written statement from the identified prospective adoptive parents that they are either unwilling or unable to adopt the child without adoption assistance.

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

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

(2) for an Indian child covered by the Indian Child Welfare Act, comply with the placement preferences identified in the Indian Child Welfare Act and the Minnesota Indian Family Preservation Act; and

(3) review all families approved for adoption who are associated with the placing agency.

If the review of families associated with the placing agency results in the identification of an appropriate adoptive placement for the child, the placing agency must provide documentation of the placement decision to the commissioner as part of the application for adoption assistance.

If two or more appropriate families are not approved or available within the placing agency, the agency shall locate additional prospective adoptive families by registering the child with the State Adoption Exchange, as required under section 259.75. If registration with the State Adoption Exchange does not result in an appropriate family for the child, the agency shall employ other recruitment methods, as outlined in recruitment policies and procedures prescribed by the commissioner, to meet this requirement.

(f) The requirement for a documented search for an appropriate adoptive placement under paragraph (d), including review of all families approved for adoption that are associated with the placing agency, registration of the child with the State Adoption Exchange, and additional recruitment methods, must be waived if:

(1) the child is being adopted by a relative;

(2) the child is being adopted by foster parents with whom the child has developed significant emotional ties while in their care as a foster child;

(3) the child is being adopted by a family that previously adopted a child of the same mother or father; or

(4) the court determines that adoption by the identified family is in the child's best interest.

For an Indian child covered by the Indian Child Welfare Act, a waiver must not be granted unless the placing agency has complied with the placement preferences identified in the Indian Child Welfare Act and the Minnesota Indian Family Preservation Act.

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

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 22. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 13. Citizenship and immigration status. (a) A child must be a citizen of the United States or otherwise eligible for federal public benefits according to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended, in order to be eligible for title IV-E adoption assistance.

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

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 23. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 14. **Background study.** (a) A background study under section 259.41 must be completed on each prospective adoptive parent. If the background study reveals:

(1) a felony conviction at any time for child abuse or neglect;

(2) spousal abuse;

(3) a crime against children, including child pornography;

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

(5) a felony conviction within the past five years for physical assault, battery, or a drug-related offense,

the adoptive parent is prohibited from receiving title IV-E adoption assistance on behalf of an otherwise eligible child.

(b) A prospective adoptive parent who possesses one of the felony convictions in paragraph (a) may receive state-funded adoption assistance on behalf of an otherwise eligible child if the court has made a judicial determination that:

(1) the legally responsible agency has thoroughly reviewed the felony conviction and has considered the impact, if any, that the conviction may have on the child's safety, well-being, and permanency;

(2) the conviction likely does not pose a current or future safety risk to the child;

(3) there is no other available permanency resource that is appropriate for the child; and

(4) the adoptive placement is in the child's best interest.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 24. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 15. **Residency.** A child placed in the state from another state or a tribe outside of the state is not eligible for state-funded adoption assistance through the state. A child placed in the state from another state or a tribe outside of the state may be eligible for title IV-E adoption assistance through the state of Minnesota if all eligibility factors are met and there is no state agency that has responsibility for placement and care of the child.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 25. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 16. **Exceptions and exclusions.** Payments for adoption assistance shall not be made to a biological parent of the child or a stepparent who adopts the child. Direct placement adoptions under section 259.47 or the equivalent in tribal code are not eligible for state-funded adoption assistance. A child who is adopted by the child's legal custodian or guardian is not eligible for state-funded adoption assistance. A child who is adopted by the child's legal custodian or guardian may be eligible for title IV-E adoption assistance if all required eligibility factors are met. International adoptions are not eligible for adoption assistance unless the adopted child has been placed into foster care through the public child welfare system subsequent to the failure of the adoption and all required eligibility factors are met.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 26. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 17. **Documentation.** Documentation must be provided to verify that a child meets the special needs criteria outlined in subdivision 12.

(a) Documentation of a disability is limited to evidence deemed appropriate by the commissioner.

(b) To qualify as being a high-risk child, the placing agency must provide to the commissioner one or more of the following:

(1) documented information in a county or tribal social service department record or court record that a relative within the first or second degree of the child has a medical diagnosis or medical history, including diagnosis of a significant mental health or chemical dependency issue, which could result in the child's development of a disability during childhood;

(2) documented information that while in the public child welfare system, the child has experienced three or more placements with extended family or different foster homes that could affect the normal attachment process;

(3) documented evidence in a county or tribal social service department record that the child experienced neglect in the first three years of life, or sustained physical injury, sexual abuse, or physical disease that could have a long-term effect on physical, emotional, or mental development; or

(4) documented evidence in a medical or hospital record, law enforcement record, county or tribal social service department record, court record, or record of an agency under a contract with a county social service agency or the state to provide child welfare services that the birth mother used drugs or alcohol during pregnancy which could later result in the child's development of a disability.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 27. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 18. **Termination.** (a) An adoption assistance agreement shall terminate in any of the following circumstances:

(1) the child attains the age of 18, unless an extension as outlined in subdivisions 20 to 23, is applied for by the adoptive parents and granted by the commissioner;

(2) the commissioner determines that the adoptive parents are no longer legally responsible for support of the child;

(3) the commissioner determines that the adoptive parents are no longer providing financial support to the child;

(4) death of the child; or

(5) the adoptive parents request termination of the adoption assistance agreement in writing.

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

(1) parental rights to the child are legally terminated;

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

(3) death of the adoptive parent;

(4) enlistment of the child in the military;

(5) marriage of the child; or

(6) emancipation of the child through legal action of another state.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 28. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 19. **Death of adoptive parent or adoption dissolution.** (a) The adoption assistance agreement ends upon death or termination of parental rights of both the adoptive parents in the case of a two-parent adoption, or the sole adoptive parent in the case of a single-parent adoption, but the child maintains eligibility for state-funded or title IV-E adoption assistance in a subsequent adoption if the following criteria are met:

(1) the child is determined to be a child with special needs as outlined in subdivision 12;

(2) the subsequent adoptive parents reside in Minnesota; and

(3) no state agency outside of Minnesota has responsibility for placement and care of the child at the time of the subsequent adoption.

(b) According to federal regulations, if the child had a title IV-E adoption assistance agreement prior to the death of the adoptive parents or dissolution of the adoption, and a state agency outside of the state of Minnesota has responsibility for placement and care of the child at the time of the subsequent adoption, the state of Minnesota is not responsible for determining whether the child meets the definition of special needs, entering into the adoption assistance agreement, and making any adoption assistance payments outlined in the new agreement.

(c) According to federal regulations, if the child had a title IV-E adoption assistance agreement prior to the death of the adoptive parents or dissolution of the adoption, the subsequent adoptive parents reside outside of the state of Minnesota, and no state agency has responsibility for placement and care of the child at the time of the subsequent adoption, the state of Minnesota is not responsible for determining whether the child meets the definition of special needs, entering into the adoption assistance agreement, and making any adoption assistance payments outlined in the new agreement.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 29. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 20. **Extension, past age 18.** Under certain limited circumstances a child may qualify for extension of the adoption assistance agreement beyond the date the child attains age 18. An application for extension must be completed and submitted by the adoptive parent at least 90 days prior to the date the child attains age 18, unless the child's adoption is scheduled to finalize less than 90 days prior to that date in which case the application for extension must be completed and submitted with the adoption assistance application. The application for extension must be made according to policies and procedures prescribed by the commissioner, including documentation of eligibility, and on forms prescribed by the commissioner.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 30. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 21. **Extension based on a continuing physical or mental disability.** (a) Extensions based on a child's continuing physical or mental disability must be applied for prior to the date the child attains age 18 and according to the requirements under subdivision 20. The commissioner must not grant an extension on this basis if an extension based on continued enrollment in a secondary education or being a child whose adoption finalized after age 16 was previously granted for the child.

(b) A child is eligible for extension of the adoption assistance agreement up to the date the child attains age 21 if the following criteria are met:

(1) the child has a mental or physical disability upon which eligibility for adoption assistance was based which warrants the continuation of assistance;

(2) the child is unable to obtain self-sustaining employment due to the aforementioned mental or physical disability; and

(3) the child needs significantly more care and support than what is typical for an individual of the same age.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 31. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 22. **Extension based on continued enrollment in a secondary education program.** (a) If a child does not qualify for extension based on a continuing physical or mental disability or a parent chooses not to apply for such extension, the adoptive parents may make an application for continuation of adoption assistance based on enrollment in a secondary education program.

(b) If a child is enrolled full-time in a secondary education program or a program leading to an equivalent credential, the child is eligible for extension to the expected graduation date or the date the child attains age 19, whichever is earlier. If a child receives a school-based extension and at any time ceases to be enrolled in a full-time secondary education program or a program leading to an equivalent credential, the adoptive parents are responsible to notify the commissioner and the agreement must terminate.

(c) Extensions based on continuation in a secondary education program must be paid from state funds only, unless the child meets the extension criteria outlined in subdivision 23.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 32. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 23. Extension for children whose adoption finalized after age 16. A child who attained the age of 16 prior to finalization of their adoption is eligible for extension of the adoption assistance agreement to the date the child attains age 21 if the child is:

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

(2) enrolled in an institution which provides postsecondary or vocational education;

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

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

(5) incapable of doing any of the activities described in clauses (1) to (4) due to a medical condition, which incapability is supported by regularly updated information in the case plan of the child.

EFFECTIVE DATE. This section is effective October 1, 2010.

Sec. 33. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 24. Adoption assistance certification. The placing agency shall certify a child as eligible for adoption assistance according to policies and procedures, and on a form or forms, prescribed by the commissioner. Professional documentation must be submitted with the certification, and when applicable, the supplemental adoption assistance needs assessment, to establish eligibility for the amount of payment requested. This form must be submitted with the adoption assistance agreement under subdivision 25.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 34. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 25. Adoption assistance agreement. (a) In order to receive adoption assistance benefits, a written, binding agreement on a form approved by the commissioner must be established and completed by the placing agency prior to finalization of the adoption. The agreement must be negotiated with the parents, in the case of a two-parent adoption, or the adoptive parent, in the case of a single-parent adoption, as required in subdivision 26. The parents, an approved representative from the placing agency, and the commissioner or the commissioner's designee must sign the agreement prior to the effective date of the adoption decree. The adoption assistance certification and agreement must be granted or denied by the commissioner no later than 15 working days after receipt of a complete and correct certification and agreement. A fully executed copy of the signed agreement must be given to each party. Termination or disruption of the preadoptive placement preceding adoption finalization makes the agreement with that family void.

(b) The agreement must specify the following:

(1) duration of the agreement;

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

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

(4) the terms of the payment;

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

(6) that the agreement must remain in effect regardless of the state of which the adoptive parents are residents at any given time;

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

(8) the effective date of the agreement.

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

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 35. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 26. **Negotiation of the agreement.** (a) A monthly payment is provided as part of the adoption assistance agreement to support the care of a child who has manifested special needs. The amount of the payment made on behalf of a child eligible for adoption assistance is determined through agreement between the adoptive parents and the commissioner or the commissioner's designee. The agreement shall take into consideration the circumstances of the adopting parents and the needs of the child being adopted. The income of the adoptive parents must not be taken into consideration when determining eligibility for adoption assistance or the amount of the payments under subdivision 28. At the written request of the adoptive parents, the amount of the payment in the agreement may be renegotiated when there is a change in the child's needs or the family's circumstances.

(b) The adoption assistance agreement of a child who is identified as a high-risk child must not include a monthly payment unless and until the potential disability manifests itself, as documented by an appropriate professional, and the commissioner authorizes commencement of payment by modifying the agreement accordingly. An adoptive parent of a high-risk child with an adoption assistance agreement may request a renegotiation of the adoption assistance agreement under subdivision 27 to include a monthly payment, if the parent has written professional documentation that the potential disability upon which eligibility for the agreement was based has manifested itself. Documentation of the disability shall be limited to evidence deemed appropriate by the commissioner.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 36. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 27. **Renegotiation of the agreement.** (a) An adoptive parent of a child with an adoption assistance agreement may request renegotiation of the agreement when there is a change in the needs of the child or in the family's circumstances. When an adoptive parent requests renegotiation of the agreement, a reassessment of the child must be completed consistent with subdivision 28. If the reassessment indicates that the child's level has changed, the commissioner or the commissioner's designee and the parent shall renegotiate the agreement to include a payment with the level determined appropriate through the reassessment process. The agreement must not be renegotiated unless the commissioner and the parent mutually agree to the changes. The effective date of any renegotiated agreement must be determined by the commissioner.

(b) An adoptive parent of a high-risk child with an adoption assistance agreement may request renegotiation of the agreement to include a monthly payment, if the parent has written professional documentation that the potential disability upon which eligibility for the agreement was based has manifested itself. Documentation of the disability must be limited to evidence deemed appropriate by the commissioner. Prior to renegotiating the agreement, a

reassessment of the child must be conducted. The reassessment must be used to renegotiate the agreement to include an appropriate monthly payment. The agreement must not be renegotiated unless the commissioner and the adoptive parent mutually agree to the changes. The effective date of any renegotiated agreement must be determined by the commissioner.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 37. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 28. **Benefits and payments.** (a) Eligibility for medical assistance for children receiving adoption assistance is as specified in section 256B.055.

(b) The basic maintenance payments must be made according to the following schedule for all children except those eligible for adoption assistance based on high risk of developing a disability:

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

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

(c) Supplemental adoption assistance needs payments, in addition to basic maintenance payments, are available for a child whose disability necessitates care, supervision, and structure beyond that ordinarily provided in a family setting to persons of the same age. These payments are related to the severity of a child's disability and the level of parenting required to care for the child, and must be made according to the following schedule:

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

A child's level shall be assessed on a supplemental maintenance needs assessment form prescribed by the commissioner. The adoptive parent may request a reassessment if at least six months has elapsed since the previously requested review. A child must receive the maximum payment amount for the child's assessed level, unless a lesser amount is negotiated with and agreed to by the prospective adoptive parent.

(d) Reimbursement for special nonmedical expenses is available to all children except those eligible for adoption assistance based on high risk of developing a disability. Reimbursements under this paragraph will be made only after the adoptive parents document that an application for the applicable service was denied by the local social service agency, community agencies, local school district, local public health department, the parent's insurance provider, or the child's Medicaid program. Reimbursements must be made according to the policies and procedures prescribed by the commissioner and are limited to:

(1) child care;

(2) respite care;

(3) camping program;

(4) home and vehicle modifications;

(5) family counseling;

(6) postadoption counseling;

(7) services to children under age three who are developmentally delayed;

(8) specialized communication equipment; and

(9) burial expenses.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 38. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 29. **Child income or income attributable to the child.** If a child for whom a parent is receiving adoption assistance is also receiving Supplemental Security Income (SSI) or Retirement, Survivors, Disability Insurance (RSDI), the certifying agency shall inform the adoptive parents that the child's adoption assistance must be reported to the Social Security Administration.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 39. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 30. **Payments.** (a) Payments to parents under adoption assistance must be made monthly.

(b) Payments must commence when the commissioner receives the adoption decree from the court, the legally responsible agency, or the parent. Payments must be made according to policies and procedures prescribed by the commissioner.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 40. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 31. **Overpayments.** (a) The commissioner has the authority to collect any amount of adoption assistance paid to a parent in excess of the payment due. Payments covered by this subdivision include basic maintenance needs payments, supplemental maintenance needs payments, and reimbursements of nonmedical expenses under subdivision 28. Prior to any collection, the commissioner or designee shall notify the parent in writing, including:

(1) the amount of the overpayment and an explanation of the cause of overpayment;

(2) clarification of the corrected amount;

(3) a statement of the legal authority for the decision;

(4) information about how the parent can correct the overpayment;

(5) if repayment is required, when the payment is due and a person to contact to review a repayment plan;

(6) a statement that the parent has a right to a fair hearing review by the department; and

(7) the procedure for seeking such a review.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 41. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 32. **Payee.** For adoption assistance cases, the payment may only be made to the adoptive parent specified on the agreement. If there is more than one adoptive parent, both parties must be listed as the payee unless otherwise specified in writing according to policies and procedures prescribed by the commissioner. In the event of divorce or separation of the parents, a change of payee may be made in writing according to policies and procedures prescribed by the commissioner. If both parents are in agreement as to the change, it may be made according to a process prescribed by the commissioner. If there is not agreement as to the change, a court order indicating the party who is to receive the payment is needed before a change can be processed. In the event of the death of the payee, a change of payee consistent with subdivision 19 may be made in writing according to policies and procedures prescribed by the commissioner.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 42. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 33. **Notification of change.** (a) An adoptive parent who has an adoption assistance agreement in place shall keep the agency administering the program informed of the parent's address and circumstances which would make them ineligible for the payments or eligible for the payments in a different amount.

(b) For the duration of the agreement, the adoptive parent agrees to notify the agency administering the program in writing within 30 days of the following changes:

(1) change in the family's address;

(2) change in the legal custody status of the child;

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

(4) date of termination of the parental rights of the adoptive parent, transfer of permanent legal and physical custody to another person, guardianship to another person, or other determination that the adoptive parent is no longer legally responsible for the support of the child;

(5) date the adoptive parent is no longer providing support to the child;

(6) date of death of the child;

(7) date of death of the adoptive parent;

(8) date the child enlists in the military;

(9) date of marriage of the child;

(10) date the child becomes an emancipated minor through legal action of another state;

(11) separation or divorce of the adoptive parent; and

(12) residence of the child outside the home for a period of more than 30 consecutive days.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 43. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 34. **Termination notice for parent.** The commissioner shall provide the child's parent written notice of termination of payment. Termination notices must be sent at least 15 days before the final payment or in the case of an unplanned termination, the notice is sent within three days of the end of the payment. The written notice must minimally include the following:

(1) the date payment will end;

(2) the reason payments will end and the event that is the basis to terminate payment;

(3) a statement that the parent has a right to a fair hearing review by the department consistent with section 256.045, subdivision 3;

(4) the procedure to request a fair hearing; and

(5) the agency name and address to which a fair hearing request must be sent.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 44. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 35. **Reimbursement of costs through purchase of service.** (a) Subject to policies and procedures prescribed by the commissioner and the provisions of this subdivision, a child-placing agency licensed in Minnesota or any other state, or local or tribal social services agency shall receive a reimbursement from the commissioner equal to 100 percent of the reasonable and appropriate cost of providing child-specific adoption services. Adoption services under this subdivision may include child-specific recruitment, child-specific training and home studies for prospective adoptive parents, and placement services.

(b) An eligible child must have a goal of adoption, which may include an adoption according to tribal law, and meet one of the following criteria:

(1) is a ward of the Minnesota commissioner of human services or a ward of a Minnesota tribal court under section 260.755, subdivision 20, who meets one of the criteria under subdivision 12, paragraph (b), and one of the criteria under subdivision 12, paragraph (c), clauses (1) to (5); or

(2) is under the guardianship of a Minnesota-licensed child-placing agency who meets one of the eligibility criteria under subdivision 12, paragraph (b), and one of the criteria in subdivision 12, paragraph (c), clauses (1) to (4).

(c) A child-placing agency licensed in Minnesota or any other state shall receive reimbursement for adoption services it purchase for or directly provides to an eligible child. Tribal social services shall receive reimbursement for adoption services it purchases for or directly provides to an eligible child. A local social services agency shall receive reimbursement only for adoption services it purchases for an eligible child.

(d) Before providing adoption services for which reimbursement is sought under this subdivision, a reimbursement agreement, on the forms prescribed by the commissioner, must be signed by the commissioner. No reimbursement under this subdivision must be made to an agency for services provided prior to signatures by all required parties on a reimbursement agreement. Separate reimbursement agreements must be made for each child and separate records must be kept on each child for whom a reimbursement agreement is made. Reimbursement shall not be made unless the commissioner of human services agrees that the reimbursement costs are reasonable and appropriate. The commissioner may spend up to \$16,000 for each purchase of service agreement per child. Only one agreement per child is allowed, unless an exception is granted by the commissioner and agreed to in writing by the commissioner prior to commencement of services. Funds encumbered and obligated under such an agreement for the child remain available until the terms of the agreement are fulfilled or the agreement is terminated.

(e) The commissioner shall make reimbursement payments directly to the agency providing the service if direct reimbursement is specified by the purchase of service agreement and if the request for reimbursement is submitted by the local or tribal social services agency along with verification on a form prescribed by the commissioner that the service was provided.

(f) The commissioner shall set aside an amount not to exceed five percent of the total amount of fiscal year appropriation from the state of Minnesota for the adoption assistance program to reimburse placing agencies for adoption services. When adoption assistance payments for children's needs exceed 95 percent of the total amount of fiscal year appropriation from the state of Minnesota for the adoption assistance program, the amount of reimbursement available to placing agencies for adoption services is reduced correspondingly.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 45. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 36. **Indian children.** A child certified as eligible for adoption assistance under this section who is protected under the Federal Indian Child Welfare Act of 1978 should, whenever possible, be served by the tribal governing body, tribal courts, or a licensed Indian child-placing agency.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 46. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 37. **Administration responsibilities.** (a) Subject to commissioner approval, the legally responsible agency shall determine the eligibility for adoption assistance under this section, and for those children determined eligible, shall further determine each child's eligibility for title IV-E of the Social Security Act.

(b) The legally responsible agency is responsible for assisting the commissioner with the administration of the adoption assistance by conducting assessments, reassessments, negotiations, and other activities as specified by the commissioner under this section.

(c) The certifying agency shall notify an adoptive parent of a child's eligibility for Medicaid in their state of residence. The certifying agency shall refer the adoptive parent to apply for Medicaid in the financial office in their county of residence. The certifying agency shall inform adoptive parents of the requirement to comply with the rules of the applicable Medicaid program.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 47. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 38. **Procedures, requirements, and deadlines.** The commissioner shall specify procedures, requirements, and deadlines for the administration of adoption assistance in accordance with this section. As needed, the commissioner shall review all procedures, requirements, and deadlines, including the designated forms, in consultation with counties, tribes, and representatives of parents, and may alter them as needed.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 48. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 39. **Administration of title IV-E programs.** The title IV-E adoption assistance program shall operate within the statute and rules set forth by the federal government in the Social Security Act and Code of Federal Regulations.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 49. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 40. **Reporting.** The commissioner shall specify required fiscal and statistical reports under section 256.01, subdivision 2, paragraph (q), and other reports as necessary.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 50. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 41. **Promotion of programs.** The commissioner or the commissioner's designee shall actively seek ways to promote the adoption assistance program, including informing prospective adoptive parents of eligible children under the commissioner's guardianship of the availability of adoption assistance. All families who adopt children under the commissioner's guardianship must be informed as to the adoption tax credit.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 51. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 42. **Appeals and fair hearings.** (a) A prospective adoptive parent has the right to appeal to the commissioner under section 256.045 when eligibility for adoption assistance is denied, and when payment or the agreement for an eligible child is modified or terminated.

(b) An adoptive parent has additional rights to appeal to the commissioner under section 256.045. These include when the commissioner terminates or modifies the adoption assistance agreement or when the commissioner denies an application for adoption assistance. A prospective adoptive parent who disagrees with a decision by the commissioner prior to finalization of the adoption may request review of the decision by the commissioner, or may appeal the decision under section 256.045. An adoption assistance agreement must be signed and in effect prior to the court order that finalizes the adoption; however, in some cases, there may be extenuating circumstances as to why an agreement was not entered into prior to the adoption finalization. An adoptive parent who believes that extenuating circumstances exist in the case of an adoption finalizing prior to entering of an adoption assistance agreement may request a fair hearing. Parents have the responsibility of proving that extenuating circumstances exist. Parents are required to provide written documentation of each eligibility criterion at the fair hearing. Examples of extenuating circumstances include: relevant facts regarding the child were known by the placing agency and not presented to the parent prior to finalization of the adoption, or failure by the commissioner or the

commissioner's designee to advise a potential parent about the availability of adoption assistance for a child in the state foster care system. If an appeals judge finds through the fair hearing process that extenuating circumstances existed and that the child met all eligibility criteria at the time the adoption was finalized, the effective date and any associated federal financial participation shall be retroactive to the date of the request for a fair hearing.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 52. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 43. **No new executions of adoption assistance agreements.** After November 24, 2010, no new adoption assistance agreements must be executed under this section. Agreements that were signed on or before November 24, 2010, and were not in effect because the adoption finalization of the child did not occur on or before November 24, 2010, must be renegotiated according to the terms of Northstar Care for Children under section 256O.001 to 256O.270. Agreements signed and in effect on or before November 24, 2010, must continue according to the terms of this section and applicable rules for the duration of the agreement, unless the adoptive parents choose to renegotiate their agreement in accordance with the terms of Northstar Care for Children. After November 24, 2010, this section and associated rules must apply to a child whose adoption assistance agreements were in effect on or before November 24, 2010, and whose adoptive parents have chosen not to renegotiate their agreement according to the terms of Northstar Care for Children.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 53. Minnesota Statutes 2008, section 260B.441, is amended to read:

260B.441 COST, PAYMENT FOR FOSTER CARE, RESIDENTIAL PLACEMENT, AND CLOTHING ALLOWANCE.

Subdivision 1. **Responsibility for placement costs.** In addition to the usual care and services given by public and private agencies, the necessary cost incurred by the commissioner of human services in providing care for such child shall be paid by the county committing such child which, subject to uniform rules established by the commissioner of human services, may receive a reimbursement not exceeding one half of such costs from funds made available for this purpose by the legislature during the period beginning July 1, 1985, and ending December 31, 1985. Beginning January 1, 1986, the necessary cost incurred by the commissioner of human services in providing care for the child must be paid by the county committing the child. Chapter 256O establishes the responsibility for cost and payment for eligible children placed in permanent placement with a relative custodian or adoptive parent. Responsibility for placement costs and payment in any other setting is with the county, consistent with chapter 256G, or the tribes authorized in section 256.01, subdivision 14b.

Subd. 2. **Federal title IV-E.** Foster care maintenance payments under title IV-E of the Social Security Act are defined in subdivisions 4 and 5 and section 256O.020. Every effort must be made to establish a child's eligibility for title IV-E, using the criteria in the Social Security Act, United States Code, title 42, sections 670 to 676. Payment of title IV-E funds in Northstar Care for Children is specified in section 256O.260. In all other circumstances, the county or tribal agency authorized in section 256.01, subdivision 14b, responsible for payment of the maintenance costs must be reimbursed from the federal funds available for the purpose.

Subd. 3. **Child resources.** ~~Where such~~ When a child is eligible to receive a grant of ~~Minnesota family investment program~~ Retirement, Survivors, and Disability Insurance (RSDI), or Supplemental Security Income for the aged, blind, and disabled, or a foster care maintenance payment under title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 676, the child's needs shall be met through these programs.

Subd. 4. **Group residential maintenance payments.** When a child is placed in a group residential setting, foster care maintenance payments are payments made on behalf of a child to cover the cost of providing food, clothing, shelter, daily supervision, school supplies, child's personal incidentals, and transportation needs associated with providing the items listed, including transportation to the child's home for visitation. Daily supervision in group residential settings includes routine day-to-day direction and arrangements to ensure the well-being and safety of the child. It may also include reasonable costs of administration and operation of the facility.

Subd. 5. **Initial clothing allowance.** An initial clothing allowance must be available to all children placed in group residential settings based on the child's individual needs during the first 60 days of the initial placement. The agency shall consider the parent's ability to provide for the child's clothing needs and the residential facility contracts. A clothing allowance must be approved that is consistent with the child's needs. The amount of the initial clothing allowance must not exceed the monthly basic rate for the child's age group under section 256O.260.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 54. Minnesota Statutes 2008, section 260C.331, subdivision 1, is amended to read:

Subdivision 1. **Care, examination, or treatment.** (a) Except where parental rights are terminated,

(1) whenever legal custody of a child is transferred by the court to a responsible social services agency,

(2) whenever legal custody is transferred to a person other than the responsible social services agency, but under the supervision of the responsible social services agency, or

(3) whenever a child is given physical or mental examinations or treatment under order of the court, and no provision is otherwise made by law for payment for the care, examination, or treatment of the child, these costs are a charge upon the welfare funds of the county in which proceedings are held upon certification of the judge of juvenile court.

(b) The court shall order, and the responsible social services agency shall require, the parents or custodian of a child, while the child is under the age of 18, to use the total income and resources attributable to the child for the period of care, examination, or treatment, except for clothing and personal needs allowance as provided in section 256B.35, to reimburse the county for the cost of care, examination, or treatment. Income and resources attributable to the child include, but are not limited to, Social Security benefits, supplemental security income (SSI), veterans benefits, railroad retirement benefits and child support. When the child is over the age of 18, and continues to receive care, examination, or treatment, the court shall order, and the responsible social services agency shall require, reimbursement from the child for the cost of care, examination, or treatment from the income and resources attributable to the child less the clothing and personal needs allowance. Income does not include earnings from a child over the age of 18 who is working as part of a plan under section 260C.212, subdivision 1, paragraph (c), clause (8), to transition from foster care or income and resources from sources other than Supplemental Security Income (SSI) and child support necessary to complete the requirements in section 260C.212, subdivision 7, paragraph (d), clause (2), as determined by the court.

(c) If the income and resources attributable to the child are not enough to reimburse the county for the full cost of the care, examination, or treatment, the court shall inquire into the ability of the parents to support the child and, after giving the parents a reasonable opportunity to be heard, the court shall order, and the responsible social services agency shall require, the parents to contribute to the cost of care, examination, or treatment of the child. When determining the amount to be contributed by the parents, the court shall use a fee schedule based upon ability to pay that is established by the responsible social services agency and approved by the commissioner of human services. The income of a stepparent who has not adopted a child shall be excluded in calculating the parental contribution under this section.

(d) The court shall order the amount of reimbursement attributable to the parents or custodian, or attributable to the child, or attributable to both sources, withheld under chapter 518A from the income of the parents or the custodian of the child. A parent or custodian who fails to pay without good reason may be proceeded against for contempt, or the court may inform the county attorney, who shall proceed to collect the unpaid sums, or both procedures may be used.

(e) If the court orders a physical or mental examination for a child, the examination is a medically necessary service for purposes of determining whether the service is covered by a health insurance policy, health maintenance contract, or other health coverage plan. Court-ordered treatment shall be subject to policy, contract, or plan requirements for medical necessity. Nothing in this paragraph changes or eliminates benefit limits, conditions of coverage, co-payments or deductibles, provider restrictions, or other requirements in the policy, contract, or plan that relate to coverage of other medically necessary services.

Sec. 55. Minnesota Statutes 2008, section 260C.441, is amended to read:

260C.441 COST, PAYMENT FOR FOSTER CARE, RESIDENTIAL PLACEMENT, AND CLOTHING ALLOWANCE.

Subdivision 1. Responsibility for placement cost. ~~In addition to the usual care and services given by public and private agencies, the necessary cost incurred by the commissioner of human services in providing care for such child shall be paid by the county committing such child which, subject to uniform rules established by the commissioner of human services, may receive a reimbursement not exceeding one half of such costs from funds made available for this purpose by the legislature during the period beginning July 1, 1985, and ending December 31, 1985. Beginning January 1, 1986, the necessary cost incurred by the commissioner of human services in providing care for the child must be paid by the county committing the child. Chapter 256O establishes the cost and payment for eligible children placed in family foster care settings or in permanent placement with a relative custodian or adoptive parent. Placement costs and payment in any other setting are the responsibility of the county, consistent with chapter 256G, or tribes authorized in section 256.01, subdivision 14b.~~

Subd. 2. Federal title IV-E. Foster care maintenance payments under title IV-E of the Social Security Act are defined in subdivisions 4 and 5, and section 256O.020. Every effort shall be made to establish a child's eligibility for title IV-E, using the criteria in the Social Security Act, United States Code, title 42, sections 670 to 676. The use of title IV-E funds in Northstar Care for Children is specified in section 256O.260. In all other circumstances, the county or tribal agency authorized in section 256.01, subdivision 14b, that is responsible for payment of the maintenance costs must be reimbursed from the federal funds available for the purpose.

Subd. 3. Child resources. ~~Where such~~ When a child in foster care is eligible to receive a grant of Minnesota family investment program or Retirement, Survivors Disability Insurance (RSDI), supplemental security income for the aged, blind, and disabled, or a foster care maintenance payment under title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 676, the child's needs shall be met through these programs.

Subd. 4. Group residential maintenance payments. When a child is placed in a group residential setting, foster care maintenance payments means payments to cover the cost of a child's food, clothing, shelter, daily supervision, school supplies, personal incidentals, recreation, and transportation needs associated with providing the items listed, including transportation to school and to the child's home for visitation. Foster care maintenance payments may also include reasonable costs of administration and operation of the facility.

Subd. 5. Initial clothing allowance. An initial clothing allowance shall be available to all children eligible for Northstar Care for Children under section 256O.210 and foster children placed in group residential settings based on the child's individual needs during the first 60 days of the initial placement. The agency must consider the parent's

ability to provide for their child's clothing needs and the residential facility contracts. A clothing allowance shall be approved that is consistent with the child's needs. The amount of the initial clothing allowance shall not exceed the monthly basic rate for the child's age group under section 256O.260.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 56. **REPEALER.**

(a) Minnesota Statutes 2008, sections 256.82, subdivision 5; and 257.85, are repealed effective January 1, 2011.

(b) Minnesota Statutes 2008, section 259.67, subdivisions 1, 2, 3, 3a, 4, 5, 6, 7, 8, 9, and 10, are repealed effective July 1, 2009.

(c) Minnesota Rules, part 9560.0665, subparts 2, 3, 4, 5, 6, 7, 8, and 9, are repealed effective January 1, 2011.

(d) Minnesota Rules, parts 9560.0071; 9560.0081; 9560.0082; 9560.0083; 9560.0091; 9560.0093, subparts 1, 3, and 4; 9560.0101; and 9560.0102, are repealed effective July 1, 2009."

Delete the title and insert:

"A bill for an act relating to human services; establishing public policies and priorities for child welfare; establishing Northstar Care for Children; making changes to adoption assistance; amending Minnesota Statutes 2008, sections 256.991; 256J.21, subdivision 2; 256J.24, subdivisions 3, 4; 257.85, subdivisions 2, 5, 6; 259.67, by adding subdivisions; 260B.441; 260C.331, subdivision 1; 260C.441; proposing coding for new law as Minnesota Statutes, chapters 256N; 256O; repealing Minnesota Statutes 2008, sections 256.82, subdivision 5; 257.85; 259.67, subdivisions 1, 2, 3, 3a, 4, 5, 6, 7, 8, 9, 10; Minnesota Rules, parts 9560.0071; 9560.0081; 9560.0082; 9560.0083; 9560.0091; 9560.0093, subparts 1, 3, 4; 9560.0101; 9560.0102; 9560.0665, subparts 2, 3, 4, 5, 6, 7, 8, 9."

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

The report was adopted.

Atkins from the Committee on Commerce and Labor to which was referred:

H. F. No. 1678, A bill for an act relating to labor and employment; modifying workers' compensation provisions; amending Minnesota Statutes 2008, sections 176.101, subdivision 2a; 176.102, subdivisions 3, 3a, by adding a subdivision; 176.103, subdivision 3; 176.135, subdivisions 6, 7, by adding a subdivision; 176.155, subdivision 1; 176.179; 176.181, subdivision 8; 176.183, subdivision 2; 176.186; 176.231, subdivision 1; 176.341, subdivision 1; 176.351, subdivision 2a; repealing Minnesota Statutes 2008, section 176.1021.

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

The report was adopted.

Thissen from the Committee on Health Care and Human Services Policy and Oversight to which was referred:

H. F. No. 1708, A bill for an act relating to human services; amending mental health provisions; changing medical assistance reimbursement and eligibility; changing provider qualification and training requirements; amending mental health behavioral aide services; adding an excluded service; amending Minnesota Statutes 2008,

sections 148C.11, subdivision 1; 245.4885, subdivision 1; 256B.0615, subdivisions 1, 3; 256B.0622, subdivision 8, by adding a subdivision; 256B.0623, subdivision 5; 256B.0624, subdivision 8; 256B.0625, subdivision 49; 256B.0943, subdivisions 1, 2, 4, 5, 6, 7, 9; 256B.0944, subdivision 5.

Reported the same back with the following amendments:

Page 3, after line 27, insert:

"Sec. 3. Minnesota Statutes 2008, section 245.50, subdivision 5, is amended to read:

Subd. 5. **Special contracts; bordering states.** (a) An individual who is detained, committed, or placed on an involuntary basis under chapter 253B may be confined or treated in a bordering state pursuant to a contract under this section. An individual who is detained, committed, or placed on an involuntary basis under the civil law of a bordering state may be confined or treated in Minnesota pursuant to a contract under this section. A peace or health officer who is acting under the authority of the sending state may transport an individual to a receiving agency that provides services pursuant to a contract under this section and may transport the individual back to the sending state under the laws of the sending state. Court orders valid under the law of the sending state are granted recognition and reciprocity in the receiving state for individuals covered by a contract under this section to the extent that the court orders relate to confinement for treatment or care of mental illness or chemical dependency. Such treatment or care may address other conditions that may be co-occurring with the mental illness or chemical dependency. These court orders are not subject to legal challenge in the courts of the receiving state. Individuals who are detained, committed, or placed under the law of a sending state and who are transferred to a receiving state under this section continue to be in the legal custody of the authority responsible for them under the law of the sending state. Except in emergencies, those individuals may not be transferred, removed, or furloughed from a receiving agency without the specific approval of the authority responsible for them under the law of the sending state.

(b) While in the receiving state pursuant to a contract under this section, an individual shall be subject to the sending state's laws and rules relating to length of confinement, reexaminations, and extensions of confinement. No individual may be sent to another state pursuant to a contract under this section until the receiving state has enacted a law recognizing the validity and applicability of this section.

(c) If an individual receiving services pursuant to a contract under this section leaves the receiving agency without permission and the individual is subject to involuntary confinement under the law of the sending state, the receiving agency shall use all reasonable means to return the individual to the receiving agency. The receiving agency shall immediately report the absence to the sending agency. The receiving state has the primary responsibility for, and the authority to direct, the return of these individuals within its borders and is liable for the cost of the action to the extent that it would be liable for costs of its own resident.

(d) Responsibility for payment for the cost of care remains with the sending agency.

(e) This subdivision also applies to county contracts under subdivision 2 which include emergency care and treatment provided to a county resident in a bordering state.

(f) If a Minnesota resident is admitted to a facility in a bordering state under this chapter, a physician, licensed psychologist who has a doctoral degree in psychology, or an advance practice registered nurse certified in mental health, who is licensed in the bordering state, may act as an examiner under sections 253B.07, 253B.08, 253B.092, 253B.12, and 253B.17 subject to the same requirements and limitations in section 253B.02, subdivision 7. The examiner may initiate an emergency hold under section 253B.05 on a Minnesota resident who is in a hospital under contract with a Minnesota governmental entity under this section providing the patient, in the professional opinion of the examiner, meets the criteria in section 253B.05."

Page 4, lines 24 to 27, reinstate the old language and delete the new language

Page 5, delete section 6

Page 21, after line 28, insert:

"Sec. 18. **RATE SETTING.**

The commissioner shall recommend a new statewide rate setting methodology for intensive residential and nonresidential mental health services to the chairs and ranking minority members of the standing legislative committees with jurisdiction over health and human services no later than January 10, 2010. The new rate setting methodology shall be fiscally neutral and consistent with federal and state Medicaid rules, regulations, procedures, and practices. In developing the recommendations for the new rate setting methodology, the commissioner shall actively engage consumers, their family members, and advocates, providers, counties, and health plans."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 5, after the semicolon, insert "changing special contracts with bordering states; requiring a new rate setting methodology;"

Correct the title numbers accordingly

With the recommendation that when so amended the bill pass.

The report was adopted.

Pelowski from the Committee on State and Local Government Operations Reform, Technology and Elections to which was referred:

H. F. No. 1744, A bill for an act relating to government operations; creating technology accessibility standards for the state; authorizing rulemaking; establishing the advisory committee for technology standards for accessibility and usability; requiring a report; appropriating money; amending Minnesota Statutes 2008, sections 16C.02, by adding a subdivision; 16C.03, subdivision 3; 16C.08, subdivision 2; 16E.01, subdivisions 1a, 3, by adding a subdivision; 16E.02, subdivision 1; 16E.03, subdivisions 2, 4; 16E.04, subdivision 1; 16E.07, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 16C; 16E.

Reported the same back with the following amendments:

Page 1, line 14, delete "by the commissioner"

Page 1, line 15, delete "16C.146" and insert "16E.03"

Page 2, line 24, after "measures" insert "if applicable"

Page 3, delete section 4

Page 6, line 16, delete "16C.146" and insert "16E.03"

Page 7, after line 25, insert:

"Sec. 10. Minnesota Statutes 2008, section 16E.03, is amended by adding a subdivision to read:

Subd. 9. **Accessibility standards.** The chief information officer shall adopt rules establishing technology access standards applicable to technology, software, and hardware procurement. The rules adopted under this section must incorporate Section 508 of the Rehabilitation Act, United States Code, title 29, section 794d, as amended by the Workforce Investment Act of 1998, Public Law 105-220, August 7, 1998, and the Web Content Accessibility and Guidelines, 2.0. The chief information officer must review subsequent revisions to Section 508 of the Rehabilitation Act and to the Web Content Accessibility and Guidelines and may adopt rules incorporating the revisions in the technology access standards."

Page 8, line 4, delete "nine" and insert "ten"

Page 8, line 5, before "chief" insert "state" and after the second "the" insert "state"

Page 8, line 15, delete "and"

Page 8, line 17, delete the period and insert "; and"

Page 8, after line 17, insert:

"(10) one staff member from the legislature, appointed by the chair of the Legislative Coordinating Commission.

The appointing authorities under this subdivision must use their best efforts to ensure that the membership of the advisory committee includes at least one representative who is deaf, hard-of-hearing, or deaf-blind, and at least one representative who is blind."

Page 10, line 7, after the first "of" insert "Deaf," and after "DeafBlind" insert a comma

Page 10, line 14, delete "2011" and insert "2009"

Renumber the sections in sequence

Correct the title numbers accordingly

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

The report was adopted.

Pelowski from the Committee on State and Local Government Operations Reform, Technology and Elections to which was referred:

H. F. No. 1820, A bill for an act relating to state government; extending the exemption from alcohol and controlled substances testing; amending Minnesota Statutes 2008, section 221.031, subdivision 10.

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

The report was adopted.

Pelowski from the Committee on State and Local Government Operations Reform, Technology and Elections to which was referred:

H. F. No. 1882, A bill for an act relating to the legislature; modifying the definition of a legislative day; amending Minnesota Statutes 2008, section 3.012.

Reported the same back with the following amendments:

Page 1, line 9, before the period, insert "or votes to override a governor's veto"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Rules and Legislative Administration.

The report was adopted.

Rukavina from the Higher Education and Workforce Development Finance and Policy Division to which was referred:

H. F. No. 1963, A bill for an act relating to employment; providing new requirements for employers in the early warning system; applying new penalties for any employer failing to comply with the Worker Adjustment and Retraining Notification Act, United States Code, title 29, section 2101; enhancing oversight authority to the commissioner of employment and economic development; amending Minnesota Statutes 2008, sections 116J.035, by adding subdivisions; 116L.976, subdivision 1, by adding a subdivision; repealing Minnesota Statutes 2008, section 181.74, subdivision 1.

Reported the same back with the following amendments:

Page 4, delete section 10

Page 4, line 25, delete "9, and 10" and insert "and 9"

Renumber the sections in sequence

Correct the title numbers accordingly

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Civil Justice.

The report was adopted.

Pursuant to Joint Rule 2.03 and in accordance with Senate Concurrent Resolution No. 5, H. F. No. 1963 was re-referred to the Committee on Rules and Legislative Administration.

Slawik from the Early Childhood Finance and Policy Division to which was referred:

H. F. No. 2028, A bill for an act relating to education; requiring the Departments of Human Services, Health, and Education to create an inventory of early childhood services; proposing coding for new law in Minnesota Statutes, chapter 119B.

Reported the same back with the following amendments:

Page 1, line 6, delete "[119B.30]"

Page 1, line 7, delete everything after "(a)" and insert "The State Advisory Council on Early Childhood Education and Care under Minnesota Statutes, section 124D.141."

Page 1, line 8, delete everything before "shall"

Amend the title as follows:

Page 1, line 2, delete "Departments of Human Services, Health, and"

Page 1, line 3, delete "Education" and insert "State Advisory Council on Early Childhood Education and Care" and delete everything after "services"

Page 1, line 4, delete everything before the period

With the recommendation that when so amended the bill pass.

The report was adopted.

Atkins from the Committee on Commerce and Labor to which was referred:

H. F. No. 2029, A bill for an act relating to commerce; regulating consumer small loan lenders and residential mortgage originators and servicers; providing for the calculation of reserves and nonforfeiture values of preneed funeral insurance contracts; revising annual audit requirements for insurers; regulating life and health guaranty association notices; regulating the powers of, and surplus requests for, township mutuals; imposing penalties; amending Minnesota Statutes 2008, sections 47.58, subdivision 1; 47.60, subdivisions 1, 3, 6; 58.05, subdivision 3; 58.06, subdivision 2; 58.13, subdivision 1; 60A.124; 60B.03, subdivision 15; 60L.02, subdivision 3; 61B.28, subdivisions 7, 8; 67A.01; 67A.06; 67A.07; 67A.14, subdivisions 1, 7; 67A.18, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 60A; 61A; 67A; repealing Minnesota Statutes 2008, sections 60A.129; 67A.14, subdivision 5; 67A.17; 67A.19; Minnesota Rules, parts 2675.2180; 2675.7100; 2675.7110; 2675.7120; 2675.7130; 2675.7140.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 47.58, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For the purposes of this section, the terms defined in this subdivision have the meanings given them.

(a) "Reverse mortgage loan" means a loan:

(1) Made to a borrower wherein the committed principal amount is paid to the borrower in equal or unequal installments over a period of months or years, interest is assessed, and authorized closing costs are incurred as specified in the loan agreement;

(2) Which is secured by a mortgage on residential property owned solely by the borrower; and

(3) Which is due when the committed principal amount has been fully paid to the borrower, or upon sale of the property securing the loan, or upon the death of the last surviving borrower, or upon the borrower terminating use of the property as principal residence so as to disqualify the property from the homestead credit given in chapter 290A.

(b) "Lender" means any bank subject to chapter 48, credit union subject to chapter 52, savings bank organized and operated pursuant to chapter 50, savings association subject to chapter 51A, any residential mortgage originator subject to chapter 58, or any insurance company as defined in section 60A.02, subdivision 4. "Lender" also includes any federally chartered bank supervised by the comptroller of the currency or federally chartered savings association supervised by the Federal Home Loan Bank Board or federally chartered credit union supervised by the National Credit Union Administration, to the extent permitted by federal law.

(c) "Borrower" includes any natural person holding an interest in severalty or as joint tenant or tenant-in-common in the property securing a reverse mortgage loan.

(d) "Outstanding loan balance" means the current net amount of money owed by the borrower to the lender whether or not that sum is suspended pursuant to the terms of the reverse mortgage loan agreement or is immediately due and payable. The outstanding loan balance is calculated by adding the current totals of the items described in clauses (1) to (5) and subtracting the current totals of the item described in clause (6):

(1) The sum of all payments made by the lender which are necessary to clear the property securing the loan of any outstanding mortgage encumbrance or mechanics or material supplier's lien.

(2) The total disbursements made by the lender to date pursuant to the loan agreement as formulated in accordance with subdivision 3.

(3) All taxes, assessments, insurance premiums and other similar charges paid to date by the lender pursuant to subdivision 6, which charges were not reimbursed by the borrower within 60 days.

(4) All actual closing costs which the borrower has deferred, if a deferral provision is contained in the loan agreement as authorized by subdivision 7.

(5) The total accrued interest to date, as authorized by subdivision 5.

(6) All payments made by the borrower pursuant to subdivision 4.

(e) "Actual closing costs" mean reasonable charges or sums ordinarily paid at the time of closing for the following, whether or not retained by the lender:

(1) Any insurance premiums on policies covering the mortgaged property including but not limited to premiums for title insurance, fire and extended coverage insurance, flood insurance, and private mortgage insurance.

(2) Abstracting, title examination and search, and examination of public records related to the mortgaged property.

(3) The preparation and recording of any or all documents required by law or custom for closing a reverse mortgage loan agreement.

(4) Appraisal and survey of real property securing a reverse mortgage loan.

(5) A single service charge, which service charge shall include any consideration, not otherwise specified in this section as an "actual closing cost," paid by the borrower to the lender for or in relation to the acquisition, making, refinancing or modification of a reverse mortgage loan, and shall also include any consideration received by the lender for making a commitment for a reverse mortgage loan, whether or not an actual loan follows the commitment. The service charge shall not exceed one percent of the bona fide committed principal amount of the reverse mortgage loan.

(6) Charges and fees necessary for or related to the transfer of real property securing a reverse mortgage loan or the closing of a reverse mortgage loan agreement paid by the borrower and received by any party other than the lender.

Sec. 2. Minnesota Statutes 2008, section 47.60, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For purposes of this section, the terms defined have the meanings given them:

(a) "Consumer small loan" is a loan transaction in which cash is advanced to a borrower for the borrower's own personal, family, or household purpose. A consumer small loan is a short-term, unsecured loan to be repaid in a single installment. The cash advance of a consumer small loan is equal to or less than \$350. A consumer small loan includes an indebtedness evidenced by but not limited to a promissory note or agreement to defer the presentation of a personal check for a fee.

(b) "Consumer small loan lender" is a financial institution as defined in section 47.59 or a ~~person~~ business entity registered with the commissioner and engaged in the business of making consumer small loans.

Sec. 3. Minnesota Statutes 2008, section 47.60, subdivision 3, is amended to read:

Subd. 3. **Filing.** Before a ~~person~~ business entity other than a financial institution as defined by section 47.59 engages in the business of making consumer small loans to Minnesota residents, the ~~person~~ business entity shall file with the commissioner as a consumer small loan lender. The filing must be on a form prescribed by the commissioner together with a fee of \$250 for each place of business and contain the following information in addition to the information required by the commissioner:

(1) evidence that the filer has available for the operation of the business at the location specified, liquid assets of at least \$50,000; and

(2) a biographical statement on the principal person responsible for the operation and management of the business to be certified.

Revocation of the filing ~~and the right to engage in the business of a consumer small loan lender~~ is the same as in the case of a regulated lender license in section 56.09.

For purposes of this subdivision, "business entity" includes one that does not have a physical location in Minnesota that makes a consumer small loan electronically via the Internet.

Sec. 4. Minnesota Statutes 2008, section 47.60, subdivision 6, is amended to read:

Subd. 6. **Penalties for violation.** A ~~person~~ business entity or the ~~person's~~ entity's members, officers, directors, agents, and employees who violate or participate in the violation of any of the provisions of this section may be liable in the same manner as in section 56.19.

Sec. 5. Minnesota Statutes 2008, section 48.21, is amended to read:

48.21 REAL ESTATE; RESTRICTIONS ON HOLDING.

Subdivision 1. **Specific restrictions.** (a) A bank may purchase, carry as an asset, and convey real estate only:

- (1) as provided for in section 47.10;
- (2) if acquired through foreclosure of a mortgage given to it in good faith as security for loans made by or money due to it;
- (3) if conveyed to it in satisfaction of debts previously contracted in good faith in the course of its dealings;
- (4) if acquired by sale on execution or judgment of a court in its favor; or
- (5) if reasonably necessary to mitigate or avoid loss on a loan or investment theretofore made.

(b) Real estate acquired under clauses (2) to (5) shall be carried as an asset only in accordance with rules the commissioner prescribes. The maximum period for holding other real estate as an asset shall be five years, provided that upon application to the commissioner, the commissioner may approve the possession of such real estate by a bank for a period longer than five years, but not to exceed an additional five years, if:

- (1) the bank has made a good faith attempt to dispose of the real estate within the initial five-year period; or
- (2) disposal within the initial five-year period would be detrimental to the bank.

Subd. 2. **Real estate holdings not bank liabilities.** Real estate owned by a bank as a result of actions authorized in clauses (2) to (5) of subdivision 1 and subsequently sold to any buyer on a contract for deed may not be considered creating a liability to a bank for purposes of section 48.24.

Subd. 3. **Real estate holdings not sold; authority to write off.** Notwithstanding any rules of the commissioner to the contrary, if real estate owned by a bank pursuant to clauses (2) to (5) of subdivision 1 is not sold or otherwise disposed of within the maximum period ~~established by rule by the commissioner~~, the bank may write off any remaining balance at a rate not less than one-fifth of that balance each subsequent calendar year.

Sec. 6. Minnesota Statutes 2008, section 58.05, subdivision 3, is amended to read:

Subd. 3. **Certificate of exemption.** A person must obtain a certificate of exemption from the commissioner to qualify as an exempt person under section 58.04, subdivision 1, paragraph (c), a financial institution under clause (2), or by order of the commissioner under clause (6); or under section 58.04, subdivision 2, paragraph (b), as a financial institution under clause ~~(3)~~ (4), or by order of the commissioner under clause ~~(7)~~ (8).

Sec. 7. Minnesota Statutes 2008, section 58.06, subdivision 2, is amended to read:

Subd. 2. **Application contents.** (a) The application must contain the name and complete business address or addresses of the license applicant. The license applicant must be a partnership, limited liability partnership, association, limited liability company, corporation, or other form of business organization, and the application must contain the names and complete business addresses of each partner, member, director, and principal officer. The application must also include a description of the activities of the license applicant, in the detail and for the periods the commissioner may require.

(b) ~~An~~ A residential mortgage originator applicant must submit one of the following:

(1) evidence which shows, to the commissioner's satisfaction, that either the federal Department of Housing and Urban Development or the Federal National Mortgage Association has approved the residential mortgage originator applicant as a mortgagee;

(2) a surety bond or irrevocable letter of credit in the amount of not less than \$50,000 in a form approved by the commissioner, issued by an insurance company or bank authorized to do so in this state. The bond or irrevocable letter of credit must be available for the recovery of expenses, fines, and fees levied by the commissioner under this chapter and for losses incurred by borrowers. The bond or letter of credit must be submitted with the license application, and evidence of continued coverage must be submitted with each renewal. Any change in the bond or letter of credit must be submitted for approval by the commissioner within ten days of its execution; or

(3) a copy of the residential mortgage originator applicant's most recent audited financial statement, including balance sheet, statement of income or loss, statements of changes in shareholder equity, and statement of changes in financial position. Financial statements must be as of a date within 12 months of the date of application.

(c) The application must also include all of the following:

(1) an affirmation under oath that the applicant:

(i) is in compliance with the requirements of section 58.125;

(ii) will maintain a perpetual roster of individuals employed as residential mortgage originators, including employees and independent contractors, which includes the ~~date~~ dates that mandatory ~~testing~~, initial education ~~was~~, and continuing education were completed. In addition, the roster must be made available to the commissioner on demand, within three business days of the commissioner's request;

(iii) will advise the commissioner of any material changes to the information submitted in the most recent application within ten days of the change;

(iv) will advise the commissioner in writing immediately of any bankruptcy petitions filed against or by the applicant or licensee;

(v) will maintain at all times either a net worth, net of intangibles, of at least \$250,000 or a surety bond or irrevocable letter of credit in the amount of at least \$50,000;

(vi) complies with federal and state tax laws; and

(vii) complies with sections 345.31 to 345.60, the Minnesota unclaimed property law;

(2) information as to the mortgage lending, servicing, or brokering experience of the applicant and persons in control of the applicant;

(3) information as to criminal convictions, excluding traffic violations, of persons in control of the license applicant;

(4) whether a court of competent jurisdiction has found that the applicant or persons in control of the applicant have engaged in conduct evidencing gross negligence, fraud, misrepresentation, or deceit in performing an act for which a license is required under this chapter;

(5) whether the applicant or persons in control of the applicant have been the subject of: an order of suspension or revocation, cease and desist order, or injunctive order, or order barring involvement in an industry or profession issued by this or another state or federal regulatory agency or by the Secretary of Housing and Urban Development within the ten-year period immediately preceding submission of the application; and

(6) other information required by the commissioner.

Sec. 8. Minnesota Statutes 2008, section 58.126, is amended to read:

58.126 EDUCATION AND TESTING REQUIREMENT.

(a) No individual shall engage in residential mortgage origination or make residential mortgage loans, whether as an employee or independent contractor, before the completion of ~~15~~ 20 hours of educational training which has been approved by the commissioner, and covering state and federal laws concerning residential mortgage lending.

(b) In addition to the initial education requirements in paragraph (a), each individual must also complete eight hours of continuing education annually. The education must include:

(1) three hours of federal law and regulations;

(2) two hours of ethics, which must include fraud, consumer protection, and fair lending; and

(3) two hours of standards governing nontraditional mortgage lending.

(c) The commissioner may by rule establish testing requirements for individuals subject to the requirements of paragraphs (a) and (b). An individual must satisfy the testing requirements established by the commissioner before engaging in residential mortgage loan origination or making residential mortgage loans.

EFFECTIVE DATE. This section is effective September 1, 2009, and applies to license applications and renewals made on or after that date.

Sec. 9. Minnesota Statutes 2008, section 58.13, subdivision 1, is amended to read:

Subdivision 1. **Generally.** (a) No person acting as a residential mortgage originator or servicer, including a person required to be licensed under this chapter, and no person exempt from the licensing requirements of this chapter under section 58.04, except as otherwise provided in paragraph (b), shall:

(1) fail to maintain a trust account to hold trust funds received in connection with a residential mortgage loan;

(2) fail to deposit all trust funds into a trust account within three business days of receipt; commingle trust funds with funds belonging to the licensee or exempt person; or use trust account funds for any purpose other than that for which they are received;

(3) unreasonably delay the processing of a residential mortgage loan application, or the closing of a residential mortgage loan. For purposes of this clause, evidence of unreasonable delay includes but is not limited to those factors identified in section 47.206, subdivision 7, clause (d);

(4) fail to disburse funds according to its contractual or statutory obligations;

(5) fail to perform in conformance with its written agreements with borrowers, investors, other licensees, or exempt persons;

(6) charge a fee for a product or service where the product or service is not actually provided, or misrepresent the amount charged by or paid to a third party for a product or service;

(7) fail to comply with sections 345.31 to 345.60, the Minnesota unclaimed property law;

(8) violate any provision of any other applicable state or federal law regulating residential mortgage loans including, without limitation, sections 47.20 to 47.208, and 47.58;

(9) make or cause to be made, directly or indirectly, any false, deceptive, or misleading statement or representation in connection with a residential loan transaction including, without limitation, a false, deceptive, or misleading statement or representation regarding the borrower's ability to qualify for any mortgage product;

(10) conduct residential mortgage loan business under any name other than that under which the license or certificate of exemption was issued;

(11) compensate, whether directly or indirectly, coerce or intimidate an appraiser for the purpose of influencing the independent judgment of the appraiser with respect to the value of real estate that is to be covered by a residential mortgage or is being offered as security according to an application for a residential mortgage loan;

(12) issue any document indicating conditional qualification or conditional approval for a residential mortgage loan, unless the document also clearly indicates that final qualification or approval is not guaranteed, and may be subject to additional review;

(13) make or assist in making any residential mortgage loan with the intent that the loan will not be repaid and that the residential mortgage originator will obtain title to the property through foreclosure;

(14) provide or offer to provide for a borrower, any brokering or lending services under an arrangement with a person other than a licensee or exempt person, provided that a person may rely upon a written representation by the residential mortgage originator that it is in compliance with the licensing requirements of this chapter;

(15) claim to represent a licensee or exempt person, unless the person is an employee of the licensee or exempt person or unless the person has entered into a written agency agreement with the licensee or exempt person;

(16) fail to comply with the record keeping and notification requirements identified in section 58.14 or fail to abide by the affirmations made on the application for licensure;

(17) represent that the licensee or exempt person is acting as the borrower's agent after providing the nonagency disclosure required by section 58.15, unless the disclosure is retracted and the licensee or exempt person complies with all of the requirements of section 58.16;

(18) make, provide, or arrange for a residential mortgage loan that is of a lower investment grade if the borrower's credit score or, if the originator does not utilize credit scoring or if a credit score is unavailable, then comparable underwriting data, indicates that the borrower may qualify for a residential mortgage loan, available from or through the originator, that is of a higher investment grade, unless the borrower is informed that the borrower may qualify for a higher investment grade loan with a lower interest rate and/or lower discount points, and consents in writing to receipt of the lower investment grade loan;

For purposes of this section, "investment grade" refers to a system of categorizing residential mortgage loans in which the loans are: (i) commonly referred to as "prime" or "subprime"; (ii) commonly designated by an alphabetical character with "A" being the highest investment grade; and (iii) are distinguished by interest rate or discount points or both charged to the borrower, which vary according to the degree of perceived risk of default based on factors such as the borrower's credit, including credit score and credit patterns, income and employment history, debt ratio, loan-to-value ratio, and prior bankruptcy or foreclosure;

(19) make, publish, disseminate, circulate, place before the public, or cause to be made, directly or indirectly, any advertisement or marketing materials of any type, or any statement or representation relating to the business of residential mortgage loans that is false, deceptive, or misleading;

(20) advertise loan types or terms that are not available from or through the licensee or exempt person on the date advertised, or on the date specified in the advertisement. For purposes of this clause, advertisement includes, but is not limited to, a list of sample mortgage terms, including interest rates, discount points, and closing costs provided by licensees or exempt persons to a print or electronic medium that presents the information to the public;

(21) use or employ phrases, pictures, return addresses, geographic designations, or other means that create the impression, directly or indirectly, that a licensee or other person is a governmental agency, or is associated with, sponsored by, or in any manner connected to, related to, or endorsed by a governmental agency, if that is not the case;

(22) violate section 82.49, relating to table funding;

(23) make, provide, or arrange for a residential mortgage loan all or a portion of the proceeds of which are used to fully or partially pay off a "special mortgage" unless the borrower has obtained a written certification from an authorized independent loan counselor that the borrower has received counseling on the advisability of the loan transaction. For purposes of this section, "special mortgage" means a residential mortgage loan originated, subsidized, or guaranteed by or through a state, tribal, or local government, or nonprofit organization, that bears one or more of the following nonstandard payment terms which substantially benefit the borrower: (i) payments vary with income; (ii) payments of principal or interest are not required or can be deferred under specified conditions; (iii) principal or interest is forgivable under specified conditions; or (iv) where no interest or an annual interest rate of two percent or less is charged in connection with the loan. For purposes of this section, "authorized independent loan counselor" means a nonprofit, third-party individual or organization providing homebuyer education programs, foreclosure prevention services, mortgage loan counseling, or credit counseling certified by the United States Department of Housing and Urban Development, the Minnesota Home Ownership Center, the Minnesota Mortgage Foreclosure Prevention Association, AARP, or NeighborWorks America;

(24) make, provide, or arrange for a residential mortgage loan without verifying the borrower's reasonable ability to pay the scheduled payments of the following, as applicable: principal; interest; real estate taxes; homeowner's insurance, assessments, and mortgage insurance premiums. For loans in which the interest rate may vary, the reasonable ability to pay shall be determined based on a fully indexed rate and a repayment schedule which achieves full amortization over the life of the loan. For all residential mortgage loans, the borrower's income and financial resources must be verified by tax returns, payroll receipts, bank records, or other similarly reliable documents.

Nothing in this section shall be construed to limit a mortgage originator's or exempt person's ability to rely on criteria other than the borrower's income and financial resources to establish the borrower's reasonable ability to repay the residential mortgage loan, including criteria established by the United States Department of Veterans Affairs or the United States Department of Housing and Urban Development for interest rate reduction refinancing loans or streamline loans, or criteria authorized or promulgated by the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation; however, such other criteria must be verified through reasonably reliable methods and documentation. The mortgage originator's analysis of the borrower's reasonable ability to repay may include, but is not limited to, consideration of the following items, if verified: (1) the borrower's current and expected income; (2) current and expected cash flow; (3) net worth and other financial resources other than the consumer's equity in the dwelling that secures the loan; (4) current financial obligations; (5) property taxes and insurance; (6) assessments on the property; (7) employment status; (8) credit history; (9) debt-to-income ratio; (10) credit scores; (11) tax returns; (12) pension statements; and (13) employment payment records, provided that no mortgage originator shall disregard facts and circumstances that indicate that the financial or other information submitted by the consumer is inaccurate or incomplete. A statement by the borrower to the residential mortgage originator or exempt person of the borrower's income and resources or sole reliance on any single item listed above is not sufficient to establish the existence of the income or resources when verifying the reasonable ability to pay.

(25) engage in "churning." As used in this section, "churning" means knowingly or intentionally making, providing, or arranging for a residential mortgage loan when the new residential mortgage loan does not provide a reasonable, tangible net benefit to the borrower considering all of the circumstances including the terms of both the new and refinanced loans, the cost of the new loan, and the borrower's circumstances;

(26) the first time a residential mortgage originator orally informs a borrower of the anticipated or actual periodic payment amount for a first-lien residential mortgage loan which does not include an amount for payment of property taxes and hazard insurance, the residential mortgage originator must inform the borrower that an additional amount will be due for taxes and insurance and, if known, disclose to the borrower the amount of the anticipated or actual periodic payments for property taxes and hazard insurance. This same oral disclosure must be made each time the residential mortgage originator orally informs the borrower of a different anticipated or actual periodic payment amount change from the amount previously disclosed. A residential mortgage originator need not make this disclosure concerning a refinancing loan if the residential mortgage originator knows that the borrower's existing loan that is anticipated to be refinanced does not have an escrow account; or

(27) make, provide, or arrange for a residential mortgage loan, other than a reverse mortgage pursuant to United States Code, title 15, chapter 41, if the borrower's compliance with any repayment option offered pursuant to the terms of the loan will result in negative amortization during any six-month period.

(b) Paragraph (a), clauses (24) through (27), do not apply to a state or federally chartered bank, savings bank, or credit union, an institution chartered by Congress under the Farm Credit Act, or to a person making, providing, or arranging a residential mortgage loan originated or purchased by a state agency or a tribal or local unit of government. This paragraph supersedes any inconsistent provision of this chapter.

Sec. 10. Minnesota Statutes 2008, section 60A.124, is amended to read:

60A.124 INDEPENDENT AUDIT.

The audit report of the independent certified public accountant that performs the audit of an insurer's annual statement as required under section ~~60A.129~~ 60A.1291, subdivision ~~3.2, paragraph (a)~~, should contain a statement as to whether anything, in connection with their audit, came to their attention that caused them to believe that the insurer failed to adopt and consistently apply the valuation procedure as required by sections 60A.122 and 60A.123.

Sec. 11. **[60A.1291] ANNUAL AUDIT.**

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

(a) "Accountant" and "independent public accountant" mean an independent certified public accountant or accounting firm in good standing with the American Institute of Certified Public Accountants and in all states in which the accountant or firm is licensed or is required to be licensed to practice. For Canadian and British companies, the term means a Canadian-chartered or British-chartered accountant.

(b) "Audit committee" means a committee or equivalent body established by the board of directors of an entity for the purpose of overseeing the accounting and financial reporting processes of an insurer or group of insurers, and audits of financial statements of the insurer or group of insurers. The audit committee of any entity that controls a group of insurers may be deemed to be the audit committee for one or more of these controlled insurers solely for the purposes of this section at the election of the controlling person under subdivision 15, paragraph (e). If an audit committee is not designated by the insurer, the insurer's entire board of directors constitutes the audit committee.

(c) "Indemnification" means an agreement of indemnity or a release from liability where the intent or effect is to shift or limit in any manner the potential liability of the person or firm for failure to adhere to applicable auditing or professional standards, whether or not resulting in part from knowing of other misrepresentations made by the insurer or its representatives.

(d) "Independent board member" has the same meaning as described in subdivision 15, paragraph (c).

(e) "Internal control over financial reporting" means a process effected by an entity's board of directors, management and other personnel designed to provide reasonable assurance regarding the reliability of the financial statements, for example, those items specified in subdivision 4, paragraphs (a), clauses (2) to (6), (b), and (c), and includes those policies and procedures that:

(1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of assets;

(2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of the financial statements, for example, those items specified in subdivision 4, paragraphs (a), clauses (2) to (6), (b), and (c), and that receipts and expenditures are being made only in accordance with authorizations of management and directors; and

(3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of assets that could have a material effect on the financial statements, for example, those items specified in subdivision 4, paragraphs (a), clauses (2) to (6), (b), and (c).

(f) "SEC" means the United States Securities and Exchange Commission.

(g) "Section 404" means Section 404 of the Sarbanes-Oxley Act of 2002 and the SEC's rules and regulations promulgated under it.

(h) "Section 404 report" means management's report on "internal control over financial reporting" as defined by the SEC and the related attestation report of the independent certified public accountant as described in paragraph (a).

(i) "SOX compliant entity" means an entity that either is required to be compliant with, or voluntarily is compliant with, all of the following provisions of the Sarbanes-Oxley Act of 2002: (i) the preapproval requirements of Section 201 (section 10A(i) of the Securities Exchange Act of 1934); (ii) the audit committee independence requirements of Section 301 (section 10A(m)(3) of the Securities Exchange Act of 1934); and (iii) the internal control over financial reporting requirements of Section 404 (Item 308 of SEC Regulation S-K).

Subd. 2. **Filing requirements.** Every insurance company doing business in this state, including fraternal benefit societies, reciprocal exchanges, service plan corporations licensed pursuant to chapter 62C, and legal service plans licensed pursuant to chapter 62G, unless exempted by the commissioner pursuant to subdivision 9, paragraph (a), or by subdivision 18, shall have an annual audit of the financial activities of the most recently completed calendar year performed by an independent certified public accountant, and shall file the report of this audit with the commissioner on or before June 1 for the immediately preceding year ending December 31. The commissioner may require an insurer to file an audited financial report earlier than June 1 with 90 days' advance notice to the insurer.

Extensions of the June 1 filing date may be granted by the commissioner for 30-day periods upon a showing by the insurer and its independent certified public accountant of the reasons for requesting the extension and a determination by the commissioner of good cause for the extension.

The request for extension must be submitted in writing not less than ten days before the due date in sufficient detail to permit the commissioner to make an informed decision with respect to the requested extension.

If an extension is granted in accordance with this subdivision, a similar extension of 30 days is granted to the filing of management's report of internal control over financial reporting.

Every insurer required to file an annual audited financial report pursuant to this subdivision shall designate a group of individuals as constituting its audit committee. The audit committee of an entity that controls an insurer may be deemed to be the insurer's audit committee for purposes of this subdivision at the election of the controlling person.

Subd. 3. **Exemptions.** Foreign and alien insurers filing audited financial reports in another state under the other state's requirements of audited financial reports which have been found by the commissioner to be substantially similar to these requirements are exempt from this subdivision if a copy of the audited financial report, communication of internal control related matters noted in an audit, accountant's letter of qualifications, and report on significant deficiencies in internal controls, which are filed with the other state, are filed with the commissioner in accordance with the filing dates specified in subdivision 2 (Canadian insurers may submit accountants' reports as filed with the Canadian Dominion Department of Insurance); and a copy of any notification of adverse financial condition report filed with the other state is filed with the commissioner within the time specified in subdivision 11. Foreign or alien insurers required to file management's report of internal control over financial reporting in another state are exempt from filing the report in this state provided the other state has substantially similar reporting requirements and the report is filed with the commissioner of the other state within the time specified. This subdivision does not prohibit or in any way limit the commissioner from ordering, conducting, and performing examinations of insurers under the authority of this chapter.

Subd. 4. **Contents of annual audit; financial report.** (a) The annual audited financial report must report, in conformity with statutory accounting practices required or permitted by the commissioner of insurance of the state of domicile, the financial position of the insurer as of the end of the most recent calendar year and the results of its operations, cash flows, and changes in capital and surplus for the year ended. The annual audited financial report must include:

(1) a report of an independent certified public accountant;

(2) a balance sheet reporting admitted assets, liabilities, capital, and surplus;

(3) a statement of operations;

(4) a statement of cash flows;

(5) a statement of changes in capital and surplus; and

(6) notes to the financial statements.

(b) The notes required under paragraph (a) are those required by the appropriate National Association of Insurance Commissioners (NAIC) annual statement instructions and National Association of Insurance Commissioners Accounting Practices and Procedures Manual and include reconciliation of differences, if any, between the audited statutory financial statements and the annual statement filed under section 60A.13, subdivision 1, with a written description of the nature of these differences.

(c) The financial statements included in the audited financial report must be prepared in a form and using language and groupings substantially the same as the relevant sections of the annual statement of the insurer filed with the commissioner. The financial statement must be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately preceding December 31. In the first year in which an insurer is required to file an audited financial report, the comparative data may be omitted. The amounts may be rounded to the nearest \$1,000, and all immaterial amounts may be combined.

Subd. 5. **Designation of independent certified public accountant.** Each insurer required by this section to file an annual audited financial report must notify the commissioner in writing of the name and address of the independent certified public accountant or accounting firm retained to conduct the annual audit within 60 days after becoming subject to the annual audit requirement. The insurer shall obtain from the accountant a letter which states that the accountant is aware of the provisions that relate to accounting and financial matters in the insurance laws and the rules of the insurance regulatory authority of the state of domicile. The letter shall affirm that the accountant will express an opinion on the financial statements in terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by that insurance regulatory authority, specifying the exceptions believed to be appropriate. A copy of the accountant's letter shall be filed with the commissioner.

Subd. 6. **Report of disagreements.** If an accountant who was the accountant for the immediately preceding filed audited financial report is dismissed or resigns, the insurer shall notify the commissioner of this event within five business days. Within ten business days of this notification, the insurer shall also furnish the commissioner with a separate letter stating whether in the 24 months preceding this event there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which, if not resolved to the satisfaction of the former accountant, would have caused that person to make reference to the subject matter of the disagreement in connection with the opinion on the financial statements. The disagreements required to be reported in response to this subdivision include both those resolved to the former accountant's satisfaction and those not resolved to the former accountant's satisfaction. Disagreements contemplated by this subdivision are those disagreements between personnel of the insurer responsible for presentation of its financial statements and personnel of the accounting firm responsible for rendering its report. The insurer shall also in writing request the former accountant to furnish a letter addressed to the insurer stating whether the accountant agrees with the statements contained in the insurer's letter and, if not, stating the reasons for any disagreement. The insurer shall furnish this responsive letter from the former accountant to the commissioner together with its own.

Subd. 7. **Qualifications of independent certified public accountant.** (a) The commissioner shall not recognize any person or firm as a qualified independent certified public accountant that is not in good standing with the American Institute of Certified Public Accountants and in all states in which the accountant is licensed or is required to be licensed to practice, or for a Canadian or British company, that is not a chartered accountant. Except as otherwise provided, an independent certified public accountant must be recognized as qualified as long as the person conforms to the standards of the person's profession, as contained in the Code of Professional Conduct of the American Institute of Certified Public Accountants and the Code of Professional Conduct of the Minnesota Board of Public Accountancy or similar code and the person is properly licensed in good standing with all required state boards of accountancy.

(b) The lead or coordinating audit partner, having primary responsibility for the audit, may not act in that capacity for more than five consecutive years. The person shall be disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of five consecutive years. An insurer may make application to the commissioner for relief from this rotation requirement on the basis of unusual circumstances. This application must be made at least 30 days before the end of the calendar year. The commissioner may consider the following factors in determining if the relief should be granted:

(1) number of partners, expertise of the partners, or the number of insurance clients in the currently registered firm;

(2) premium volume of the insurer; or

(3) number of jurisdictions in which the insurer transacts business.

The insurer shall file, with its annual statement filing, the approval for relief from this paragraph with the states that it is licensed in or doing business in and with the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

(c) The commissioner shall not recognize as a qualified independent certified public accountant, nor accept an annual audited financial report, prepared in whole or in part by an accountant who provides to an insurer, contemporaneously with the audit, the following nonaudit services:

(1) bookkeeping or other services related to the accounting records or financial statements of the insurer;

(2) financial information systems design and implementation;

(3) appraisal or valuation services, fairness opinions, or contribution in-kind reports;

(4) actuarially oriented advisory services involving the determination of amounts recorded in the financial statements. The accountant may assist an insurer in understanding the methods, assumptions, and inputs used in the determination of amounts recorded in the financial statement only if it is reasonable to conclude that the services provided will not be subject to audit procedures during an audit of the insurer's financial statements. An accountant's actuary may also issue an actuarial opinion or certification on an insurer's reserves if the following conditions have been met:

(i) neither the accountant nor the accountant's actuary has performed any management functions or made any management decisions;

(ii) the insurer has competent personnel, or engages a third-party actuary, to estimate the loss reserves for which management takes responsibility; and

(iii) the accountant's actuary tests the reasonableness of the reserves after the insurer's management has determined the amount of the loss reserves;

(5) internal audit outsourcing services;

(6) management functions or human resources;

(7) broker or dealer, investment adviser, or investment banking services;

(8) legal services or expert services unrelated to the audit; and

(9) any other services that the commissioner determines, by rule, are impermissible.

(d) The commissioner shall not recognize as a qualified independent certified public accountant, nor accept any audited financial report, prepared in whole or in part by any natural person who has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act, United States Code, title 18, sections 1961 to 1968, or any dishonest conduct or practices under federal or state law, has been found to have violated the insurance laws of this state with respect to any previous reports submitted under this section, or has demonstrated a pattern or practice of failing to detect or disclose material information in previous reports filed under the provisions of this section.

(e) The commissioner, after notice and hearing under chapter 14, may find that the accountant is not qualified for purposes of expressing an opinion on the financial statements in the annual audited financial report. The commissioner may require the insurer to replace the accountant with another whose relationship with the insurer is qualified within the meaning of this section.

Subd. 8. Exemptions to qualifications of certified public accountant. (a) Insurers having direct written and assumed premiums of less than \$100,000,000 in any calendar year may request an exemption from subdivision 7, paragraph (c). The insurer shall file with the commissioner a written statement discussing the reasons why the insurer should be exempt from these provisions. If the commissioner finds, upon review of this statement, that compliance with this section would constitute a financial or organizational hardship upon the insurer, an exemption may be granted.

(b) A qualified independent certified public accountant who performs the audit may engage in other nonaudit services, including tax services, that are not described in subdivision 7, paragraph (c), only if the activity is approved in advance by the audit committee, in accordance with paragraph (c).

(c) All auditing services and nonaudit services provided to an insurer by the qualified independent certified public accountant of the insurer must be preapproved by the audit committee. The preapproval requirement is waived with respect to nonaudit services if the insurer is a SOX compliant entity or a direct or indirect wholly owned subsidiary of a SOX compliant entity or:

(1) the aggregate amount of all such nonaudit services provided to the insurer constitutes not more than five percent of the total amount of fees paid by the insurer to its qualified independent certified public accountant during the fiscal year in which the nonaudit services are provided;

(2) the services were not recognized by the insurer at the time of the engagement to be nonaudit services; and

(3) the services are promptly brought to the attention of the audit committee and approved before the completion of the audit by the audit committee or by one or more members of the audit committee who are the members of the board of directors to whom authority to grant such approvals has been delegated by the audit committee.

(d) The audit committee may delegate to one or more designated members of the audit committee the authority to grant the preapprovals required by paragraph (c). The decisions of any member to whom this authority is delegated must be presented to the full audit committee at each of its scheduled meetings.

(e) The commissioner shall not recognize an independent certified public accountant as qualified for a particular insurer if a member of the board, president, chief executive officer, controller, chief financial officer, chief accounting officer, or any person serving in an equivalent position for that insurer, was employed by the independent certified public accountant and participated in the audit of that insurer during the one-year period preceding the date that the most current statutory opinion is due. This paragraph applies only to partners and senior managers involved in the audit. An insurer may make application to the commissioner for relief from this paragraph on the basis of unusual circumstances.

(f) The insurer shall file, with its annual statement filing, the approval for relief with the states that it is licensed in or doing business in and the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

Subd. 9. Consolidated or combined audits. (a) The commissioner may allow an insurer to file consolidated or combined audited financial statements required by subdivision 2, in lieu of separate annual audited financial statements, where it can be demonstrated that an insurer is part of a group of insurance companies that has a pooling or 100 percent reinsurance agreement which substantially affects the solvency and integrity of the reserves of the insurer and the insurer cedes all of its direct and assumed business to the pool. An affiliated insurance company not meeting these requirements may be included in the consolidated or combined audited financial statements, if the company's total admitted assets are less than five percent of the consolidated group's total admitted assets. If these circumstances exist, then the company may file a written application to file consolidated or combined audited financial statements. This application must be for a specified period.

(b) Upon written application by a domestic insurer, the commissioner may authorize the domestic insurer to include additional affiliated insurance companies in the consolidated or combined audited financial statements. A foreign insurer must obtain the prior written authorization of the commissioner of its state of domicile in order to submit an application for authority to file consolidated or combined audited financial statements. This application must be for a specified period.

(c) A consolidated annual audit filing must include a columnar consolidated or combining worksheet. Amounts shown on the audited consolidated or combined financial statement must be shown on the worksheet. Amounts for each insurer must be stated separately. Noninsurance operations may be shown on the worksheet on a combined or individual basis. Explanations of consolidating or eliminating entries must be shown on the worksheet. A reconciliation of any differences between the amounts shown in the individual insurer columns of the worksheet and comparable amounts shown on the annual statement of the insurers must be included on the worksheet.

Subd. 10. Scope of audit and report of independent certified public accountant. Financial statements furnished pursuant to subdivision 4 must be examined by an independent certified public accountant. The audit of the insurer's financial statements must be conducted in accordance with generally accepted auditing standards. In accordance with AICPA Statement on Auditing Standards (SAS) No. 109, Understanding the Entity and its Environment and Assessing the Risks of Material Misstatement, or its replacement, the independent certified public accountant should obtain an understanding of internal control sufficient to plan the audit. To the extent required by SAS No. 109, for those insurers required to file a management's report of internal control over financial reporting pursuant to subdivision 17, the independent certified public accountant should consider (as that term is defined in SAS No. 102, Defining Professional Requirements in Statements on Auditing Standards or its replacement) the most recently available report in planning and performing the audit of the statutory financial statements. Consideration should be given to other procedures illustrated in the Financial Condition Examiners Handbook promulgated by the National Association of Insurance Commissioners as the independent certified public accountant deems necessary.

Subd. 11. **Notification of adverse financial condition.** The insurer required to furnish the annual audited financial report shall require the independent certified public accountant to provide written notice within five business days to the board of directors of the insurer or its audit committee of any determination by that independent certified public accountant that the insurer has materially misstated its financial condition as reported to the commissioner as of the balance sheet date currently under audit or that the insurer does not meet the minimum capital and surplus requirement of sections 60A.07, 66A.32, and 66A.33 as of that date. An insurer required to file an annual audited financial report who received a notification of adverse financial condition from the accountant shall file a copy of the notification with the commissioner within five business days of the receipt of the notification. The insurer shall provide the independent certified public accountant making the notification with evidence of the report being furnished to the commissioner. If the independent certified public accountant fails to receive the evidence within the required five-day period, the independent certified public accountant shall furnish to the commissioner a copy of the notification to the board of directors or its audit committee within the next five business days. No independent certified public accountant is liable in any manner to any person for any statement made in connection with this subdivision if the statement is made in good faith in compliance with this subdivision. If the accountant becomes aware of facts which might have affected the audited financial report after the date it was filed, the accountant shall take the action prescribed by AU section 561, Subsequent Discovery of Facts Existing at the Date of the Auditor's Report of the Professional Standards issued by the American Institute of Certified Public Accountants, or its replacement.

Subd. 12. **Communication of internal control related matters noted in an audit.** In addition to the annual audited financial report, each insurer shall furnish the commissioner with a written communication as to any unremediated material weaknesses in its internal control over financial reporting noted during the audit. The communication must be prepared by the accountant within 60 days after the filing of the annual audited financial report, and must contain a description of any unremediated material weakness, as the term material weakness is defined by SAS No. 115, Communicating Internal Control Related Matters Identified in an Audit, as of December 31 immediately preceding so as to coincide with the audited financial report discussed in subdivision 2 in the insurer's internal control over financial reporting noted by the accountant during the course of their audit of the financial statements. If no unremediated material weaknesses were noted, the communication should so state.

The insurer is required to provide a description of remedial actions taken or proposed to correct unremediated material weaknesses, if the actions are not described in the accountant's communication.

Subd. 13. **Accountant's letter of qualification.** The accountant shall furnish the insurer in connection with, and for inclusion in, the filing of the annual audited financial report, a letter stating that the accountant is independent with respect to the insurer and conforms to the standards of the accountant's profession as contained in the Code of Professional Conduct of the American Institute of Certified Public Accountants and the Code of Professional Conduct of the Minnesota Board of Accountancy or similar code; the background and experience in general, and the experience in audits of insurers of the staff assigned to the engagement and whether each is an independent certified public accountant; that the accountant understands that the annual audited financial report and the opinion on it will be filed in compliance with this statute and that the commissioner will be relying on this information in the monitoring and regulation of the financial position of insurers; that the accountant consents to the requirements of subdivision 14 and that the accountant consents and agrees to make available for review by the commissioner, or the commissioner's designee or appointed agent, the work papers, as defined in subdivision 14; a representation that the accountant is properly licensed in good standing by the appropriate state licensing authorities and is a member in good standing in the American Institute of Certified Public Accountants; and a representation that the accountant complies with subdivision 7. Nothing in this section prohibits the accountant from utilizing staff the accountant deems appropriate where use is consistent with the standards prescribed by generally accepted auditing standards.

Subd. 14. Availability and maintenance of independent certified public accountants' work papers. Work papers are the records kept by the independent certified public accountant of the procedures followed, tests performed, information obtained, and conclusions reached pertinent to the independent certified public accountant's audit of the financial statements of an insurer. Work papers may include audit planning documents, work programs, analyses, memoranda, letters of confirmation and representation, management letters, abstracts of company documents, and schedules or commentaries prepared or obtained by the independent certified public accountant in the course of the audit of the financial statements of an insurer and that support the accountant's opinion. Every insurer required to file an audited financial report shall require the accountant, through the insurer, to make available for review by the examiners the work papers prepared in the conduct of the audit and any communications related to the audit between the accountant and the insurer. The work papers must be made available at the offices of the insurer, at the offices of the commissioner, or at any other reasonable place designated by the commissioner. The insurer shall require that the accountant retain the audit work papers and communications until the commissioner has filed a report on examination covering the period of the audit but no longer than seven years after the period reported upon, provided retention of the working papers beyond the seven years is not required by other professional or regulatory requirements. In the conduct of the periodic review by the examiners, it must be agreed that photocopies of pertinent audit work papers may be made and retained by the commissioner. These copies shall be part of the commissioner's work papers and must be given the same confidentiality as other examination work papers generated by the commissioner.

Subd. 15. Requirements for audit committee. (a) The audit committee must be directly responsible for the appointment, compensation, and oversight of the work of any accountant including resolution of disagreements between management and the accountant regarding financial reporting for the purpose of preparing or issuing the audited financial report or related work pursuant to this regulation. Each accountant shall report directly to the audit committee.

(b) Each member of the audit committee must be a member of the board of directors of the insurer or a member of the board of directors of an entity elected pursuant to paragraph (e) and subdivision 1, paragraph (b).

(c) In order to be considered independent for purposes of this section, a member of the audit committee may not, other than in his or her capacity as a member of the audit committee, the board of directors, or any other board committee, accept any consulting, advisory, or other compensatory fee from the entity or be an affiliated person of the entity or any subsidiary of the entity. However, if law requires board participation by otherwise nonindependent members, that law shall prevail and such members may participate in the audit committee and be designated as independent for audit committee purposes, unless they are an officer or employee of the insurer or one of its affiliates.

(d) If a member of the audit committee ceases to be independent for reasons outside the member's reasonable control, that person, with notice by the responsible entity to the state, may remain an audit committee member of the responsible entity until the earlier of the next annual meeting of the responsible entity or one year from the occurrence of the event that caused the member to be no longer independent.

(e) To exercise the election of the controlling person to designate the audit committee for purposes of this section, the ultimate controlling person shall provide written notice to the commissioners of the affected insurers. Notification must be made timely before the issuance of the statutory audit report and include a description of the basis for the election. The election can be changed through notice to the commissioner by the insurer, which shall include a description of the basis for the change. The election remains in effect for perpetuity, until rescinded.

(f) The audit committee shall require the accountant that performs for an insurer any audit required by this section to timely report to the audit committee in accordance with the requirements of SAS No. 114, The Auditor's Communication with Those Charged with Governance, including:

(1) all significant accounting policies and material permitted practices;

(2) all material alternative treatments of financial information within statutory accounting principles that have been discussed with management officials of the insurer, ramifications of the use of the alternative disclosures and treatments, and the treatment preferred by the accountant; and

(3) other material written communications between the accountant and the management of the insurer, such as any management letter or schedule of unadjusted differences.

(g) If an insurer is a member of an insurance holding company system, the reports required by paragraph (f) may be provided to the audit committee on an aggregate basis for insurers in the holding company system, provided that any substantial differences among insurers in the system are identified to the audit committee.

(h) The proportion of independent audit committee members shall meet or exceed the following criteria:

(1) for companies with prior calendar year direct written and assumed premiums \$0 to \$300,000,000, no minimum requirements;

(2) for companies with prior calendar year direct written and assumed premiums over \$300,000,000 to \$500,000,000, majority of members must be independent; and

(3) for companies with prior calendar year direct written and assumed premiums over \$500,000,000, 75 percent or more must be independent.

(i) An insurer with direct written and assumed premium, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than \$500,000,000 may make application to the commissioner for a waiver from the requirements of this subdivision based upon hardship. The insurer shall file, with its annual statement filing, the approval for relief from this subdivision with the states that it is licensed in or doing business in and the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

This subdivision does not apply to foreign or alien insurers licensed in this state or an insurer that is a SOX compliant entity or a direct or indirect wholly-owned subsidiary of a SOX compliant entity.

Subd. 16. Conduct of insurer in connection with the preparation of required reports and documents. (a) No director or officer of an insurer shall, directly or indirectly:

(1) make or cause to be made a materially false or misleading statement to an accountant in connection with any audit, review, or communication required under this section; or

(2) omit to state, or cause another person to omit to state, any material fact necessary in order to make statements made, in light of the circumstances under which the statements were made, not misleading to an accountant in connection with any audit, review, or communication required under this section.

(b) No officer or director of an insurer, or any other person acting under the direction thereof, shall directly or indirectly take any action to coerce, manipulate, mislead, or fraudulently influence any accountant engaged in the performance of an audit pursuant to this section if that person knew or should have known that the action, if successful, could result in rendering the insurer's financial statements materially misleading.

(c) For purposes of paragraph (b), actions that, "if successful, could result in rendering the insurer's financial statements materially misleading" include, but are not limited to, actions taken at any time with respect to the professional engagement period to coerce, manipulate, mislead, or fraudulently influence an accountant:

(1) to issue or reissue a report on an insurer's financial statements that is not warranted in the circumstances due to material violations of statutory accounting principles prescribed by the commissioner, generally accepted auditing standards, or other professional or regulatory standards;

(2) not to perform audit, review, or other procedures required by generally accepted auditing standards or other professional standards;

(3) not to withdraw an issued report; or

(4) not to communicate matters to an insurer's audit committee.

Subd. 17. Management's report of internal control over financial reporting. (a) Every insurer required to file an audited financial report pursuant to this section that has annual direct written and assumed premiums, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of \$500,000,000 or more, shall prepare a report of the insurer's or group of insurers' internal control over financial reporting, as these terms are defined in subdivision 1. The report must be filed with the commissioner along with the communication of internal control related matters noted in an audit described under subdivision 12. Management's report of internal control over financial reporting shall be as of December 31 immediately preceding.

(b) Notwithstanding the premium threshold in paragraph (a), the commissioner may require an insurer to file management's report of internal control over financial reporting if the insurer is in any RBC level event, or meets any one or more of the standards of an insurer deemed to be in hazardous financial condition as pursuant to sections 606.20 to 606.22.

(c) An insurer or a group of insurers that is:

(1) directly subject to Section 404;

(2) part of a holding company system whose parent is directly subject to Section 404;

(3) not directly subject to Section 404 but is a SOX compliant entity; or

(4) a member of a holding company system whose parent is not directly subject to Section 404 but is a SOX compliant entity;

may file its or its parent's Section 404 report and an addendum in satisfaction of this requirement provided that those internal controls of the insurer or group of insurers having a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements, consisting of those items included in subdivision 4, paragraphs (a), clauses (2) to (6), (b), and (c), were included in the scope of the Section 404 report. The addendum shall be a positive statement by management that there are no material processes with respect to the preparation of the insurer's or group of insurers' audited statutory financial statements, consisting of those items included in subdivision 4, paragraphs (a), clauses (2) to (6), (b), and (c), excluded from the Section 404 report. If there are internal controls of the insurer or group of insurers that have a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements and those internal controls were not included in the scope of the Section 404 report, the insurer or group of insurers may either file (i) a report under this subdivision, or (ii) the Section 404 report and a report under this subdivision for those internal controls that have a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements not covered by the Section 404 report.

(d) Management's report of internal control over financial reporting shall include:

(1) a statement that management is responsible for establishing and maintaining adequate internal control over financial reporting;

(2) a statement that management has established internal control over financial reporting and an assertion, to the best of management's knowledge and belief, after diligent inquiry, as to whether its internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statutory accounting principles;

(3) a statement that briefly describes the approach or processes by which management evaluated the effectiveness of its internal control over financial reporting;

(4) a statement that briefly describes the scope of work that is included and whether any internal controls were excluded;

(5) disclosure of any unremediated material weaknesses in the internal control over financial reporting identified by management as of December 31 immediately preceding. Management is not permitted to conclude that the internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statutory accounting principles if there is one or more unremediated material weaknesses in its internal control over financial reporting;

(6) a statement regarding the inherent limitations of internal control systems; and

(7) signatures of the chief executive officer and the chief financial officer or equivalent position or title.

(e) Management shall document and make available upon financial condition examination the basis upon which its assertions, required in paragraph (d), are made. Management may base its assertions, in part, upon its review, monitoring, and testing of internal controls undertaken in the normal course of its activities.

(1) Management has discretion as to the nature of the internal control framework used, and the nature and extent of documentation, in order to make its assertion in a cost-effective manner and, as such, may include assembly of or reference to existing documentation.

(2) Management's report on internal control over financial reporting, required by paragraph (a), and any documentation provided in support of the report during the course of a financial condition examination, must be kept confidential by the Department of Commerce.

Subd. 18. **Exemptions.** (a) Upon written application of any insurer, the commissioner may grant an exemption from compliance with the provisions of this section. In order to receive an exemption, an insurer must demonstrate to the satisfaction of the commissioner that compliance would constitute a financial or organizational hardship upon the insurer. An exemption may be granted at any time and from time to time for specified periods. Within ten days from the denial of an insurer's written request for an exemption, the insurer may request in writing a hearing on its application for an exemption. This hearing must be held in accordance with chapter 14. Upon written application of any insurer, the commissioner may permit an insurer to file annual audited financial reports on some basis other than a calendar year basis for a specified period. An exemption may not be granted until the insurer presents an alternative method satisfying the purposes of this section. Within ten days from a denial of a written request for an exemption, the insurer may request in writing a hearing on its application. The hearing must be held in accordance with chapter 14.

(b) This section applies to all insurers, unless otherwise indicated, required to file an annual audit by subdivision 2, except insurers having less than \$1,000,000 of direct written premiums in this state in any calendar year and fewer than 1,000 policyholders or certificate holders of directly written policies nationwide at the end of the calendar year,

are exempt from this section for that year, unless the commissioner makes a specific finding that compliance is necessary for the commissioner to carry out statutory responsibilities, except that insurers having assumed premiums from reinsurance contracts or treaties of \$1,000,000 or more are not exempt.

Subd. 19. Canadian and British companies. (a) In the case of Canadian and British insurers, the annual audited financial report means the annual statement of total business on the form filed by these companies with their domiciliary supervision authority and duly audited by an independent chartered accountant.

(b) For these insurers the letter required in subdivision 5 shall state that the accountant is aware of the requirements relating to the annual audited statement filed with the commissioner under subdivision 2, and shall affirm that the opinion expressed is in conformity with those requirements.

Subd. 20. Commercial mortgage loan valuation procedures. A report of the independent certified public accountant that performs the audit of an insurer's annual statement as required under subdivision 2, shall be filed and contain a statement as to whether anything in connection with the audit came to the accountant's attention that caused the accountant to believe that the insurer failed to adopt and consistently apply the valuation procedures as required by sections 60A.122 and 60A.123.

Subd. 21. Examinations. (a) The commissioner or a designated representative shall determine the nature, scope, and frequency of examinations under this section conducted by examiners under section 60A.031. These examinations may cover all aspects of the insurer's assets, condition, affairs, and operations and may include and be supplemented by audit procedures performed by independent certified public accountants. Scheduling of examinations will take into account all relevant matters with respect to the insurer's condition, including results of the National Association of Insurance Commissioners, Insurance Regulatory Information Systems, changes in management, results of market conduct examinations, and audited financial reports. The type of examinations performed by examiners under this section must be compliance examinations, targeted examinations, and comprehensive examinations.

(b) Compliance examinations will consist of a review of the accountant's workpapers defined under this section and a general review of the insurer's corporate affairs and insurance operations to determine compliance with the Minnesota insurance laws and the rules of the Department of Commerce. The examiners may perform alternative or additional examination procedures to supplement those performed by the accountant when the examiners determine that the procedures are necessary to verify the financial condition of the insurer.

(c) Targeted examinations may cover limited areas of the insurer's operations as the commissioner may deem appropriate.

(d) Comprehensive examinations will be performed when the report of the accountant as provided for in subdivision 7, paragraph (b), the notification required by subdivision 7, paragraph (c), the results of compliance or targeted examinations, or other circumstances indicate in the judgment of the commissioner or a designated representative that a complete examination of the condition and affairs of the insurer is necessary.

(e) Upon completion of each targeted, compliance, or comprehensive examination, the examiner appointed by the commissioner shall make a full and true report on the results of the examination. Each report shall include a general description of the audit procedures performed by the examiners and the procedures of the accountant that the examiners may have utilized to supplement their examination procedures and the procedures that were performed by the registered independent certified public accountant if included as a supplement to the examination.

Subd. 22. Penalties. An annual statement, report, or document related to the business of insurance must not be filed with the commissioner or issued to the public if it is signed by anyone who is represented in the instrument as an "accountant," unless the person is qualified as defined by this section. A violation of this subdivision is a violation of section 72A.19 and punishable in accordance with section 72A.25.

EFFECTIVE DATE. (a) Domestic insurers retaining a certified public accountant on the effective date of this section who qualify as independent shall comply with this section for the year ending December 31, 2010, and each year thereafter unless the commissioner permits otherwise.

(b) Domestic insurers not retaining a certified public accountant on the effective date of this section who qualifies as independent shall meet the following schedule for compliance unless the commissioner permits otherwise.

(1) As of December 31, 2010, file with the commissioner an audited financial report.

(2) For the year ending December 31, 2010, and each year thereafter, such insurers shall file with the commissioner all reports and communication required by this section.

(c) Foreign insurers shall comply with this section for the year ending December 31, 2010, and each year thereafter, unless the commissioner permits otherwise.

(d) The requirements of subdivision 7, paragraph (b), are in effect for audits of the year beginning January 1, 2010, and thereafter.

(e) The requirements of subdivision 15 are in effect January 1, 2010. An insurer or group of insurers that is not required to have independent audit committee members or only a majority of independent audit committee members, as opposed to a supermajority, because the total written and assumed premium is below the threshold and subsequently becomes subject to one of the independence requirements due to changes in premium has one year following the year the threshold is exceeded, but not earlier than January 1, 2010, to comply with the independence requirements. Likewise, an insurer that becomes subject to one of the independence requirements as a result of a business combination has one calendar year following the date of acquisition or combination to comply with the independence requirements.

(f) An insurer or group of insurers that is not required to file a report because the total written premium is below the threshold and subsequently becomes subject to the reporting requirements has two years following the year the threshold is exceeded, but not earlier than December 31, 2010, to file a report. Likewise, an insurer acquired in a business combination has two calendar years following the date of acquisition or combination to comply with the reporting requirements.

(g) The requirements and provisions contained in this section are effective January 1, 2010, and thereafter.

Sec. 12. Minnesota Statutes 2008, section 60B.03, subdivision 15, is amended to read:

Subd. 15. **Insolvency.** "Insolvency" means:

(a) For an insurer organized under sections 67A.01 to 67A.26, the inability to pay any uncontested debt as it becomes due ~~or any other loss within 30 days after the due date specified in the first assessment notice issued pursuant to section 67A.17.~~

(b) For any other insurer, that it is unable to pay its debts or meet its obligations as they mature or that its assets do not exceed its liabilities plus the greater of (1) any capital and surplus required by law to be constantly maintained, or (2) its authorized and issued capital stock. For purposes of this subdivision, "assets" includes one-half of the maximum total assessment liability of the policyholders of the insurer, and "liabilities" includes reserves required by law. For policies issued on the basis of unlimited assessment liability, the maximum total liability, for purposes of determining solvency only, shall be deemed to be that amount that could be obtained if there were 100 percent collection of an assessment at the rate of ten mills per dollar of insurance written by it and in force.

Sec. 13. Minnesota Statutes 2008, section 60L.02, subdivision 3, is amended to read:

Subd. 3. **Additional requirements.** (a) In order to be eligible to be governed by sections 60L.01 to 60L.15, the insurer must meet the requirements specified under this subdivision.

(b) The insurer shall:

(1) have been in continuous operation for a minimum of five years; and

(2) maintain a minimum claims-paying, financial strength, or equivalent rating from at least one nationally recognized statistical rating organization in one of the organization's three highest rating categories for the time period during which sections 60L.01 to 60L.15 apply to the insurer. For purposes of this subdivision, the rating must be based on a review of the insurer by the nationally recognized statistical rating organization with the cooperation of the insurer; must not depend on a guarantee or other credit enhancement from another entity; and must not be modified or otherwise qualified to show dependence of the rating on the performance or a contractual obligation of, or the insurer's affiliation with, another insurer.

(c) The insurer or an affiliate, as defined in section 60D.15, subdivision 2, of the insurer shall employ at least one individual as a professional investment manager for the insurer's investments whom the board of directors or trustees of the insurer finds is qualified on the basis of experience, education or training, competence, personal integrity, and who conducts professional investment management activities in accordance with the Code of Ethics and Standards of Professional Conduct of the Association for Investment Management and Research. For purposes of complying with this paragraph, an employee of an affiliate may only be used if they are responsible for managing the insurer's investments.

(d) The board of directors of the insurer must annually adopt a resolution finding that the insurer or an affiliate, as defined in section 60D.15, subdivision 2, of the insurer has employed a professional investment manager for the insurer's investments with sufficient expertise and has sufficient other resources to implement and monitor the insurer's investment policies and strategies.

(e) In the report required under section ~~60A.129~~ 60A.1291, subdivision ~~3 12~~, paragraph ~~(4)~~, the insurer's independent auditor shall not have identified any significant deficiencies in the insurer's internal control structure related to investments during any of the five years immediately preceding the date on which sections 60L.01 to 60L.15 begin to apply to the insurer, and as long as sections 60L.01 to 60L.15 apply to the insurer.

Sec. 14. **[61A.258] PRENEED INSURANCE PRODUCTS; MINIMUM MORTALITY STANDARDS FOR RESERVES AND NONFORFEITURE VALUES.**

Subdivision 1. **Definitions.** For the purposes of this section, the following terms have the meanings given them:

(1) "2001 CSO Mortality Table (2001 CSO)" means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the National Association of Insurance Commissioners (NAIC) in December 2002. The 2001 CSO Mortality Table (2001 CSO) is included in the Proceedings of the NAIC (2nd Quarter 2002). Unless the context indicates otherwise, the "2001 CSO Mortality Table (2001 CSO)" includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables;

(2) "Ultimate 1980 CSO" means the Commissioners' 1980 Standard Ordinary Life Valuation Mortality Tables (1980 CSO) without ten-year selection factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law approved in December 1983; and

(3) "preneed insurance" is any life insurance policy or certificate that is issued in combination with, in support of, with an assignment to, or as a guarantee for a prearrangement agreement for goods and services to be provided at the time of and immediately following the death of the insured. Goods and services may include, but are not limited to embalming, cremation, body preparation, viewing or visitation, coffin or urn, memorial stone, and transportation of the deceased. The status of the policy or contract as preneed insurance is determined at the time of issue in accordance with the policy form filing.

Subd. 2. **Minimum valuation mortality standards.** For preneed insurance contracts, the minimum mortality standard for determining reserve liabilities and nonforfeiture values for both male and female insureds shall be the Ultimate 1980 CSO.

Subd. 3. **Minimum valuation interest rate standards.** (a) The interest rates used in determining the minimum standard for valuation of preneed insurance shall be the calendar year statutory valuation interest rates as defined in section 61A.25.

(b) The interest rates used in determining the minimum standard for nonforfeiture values for preneed insurance shall be the calendar year statutory nonforfeiture interest rates as defined in section 61A.24.

Subd. 4. **Minimum valuation method standards.** (a) The method used in determining the standard for the minimum valuation of reserves of preneed insurance shall be the method defined in section 61A.25.

(b) The method used in determining the standard for the minimum nonforfeiture values for preneed insurance shall be the method defined in section 61A.24.

EFFECTIVE DATE; TRANSITION RULES. (a) This section is effective January 1, 2009, and applies to preneed insurance policies and certificates issued on or after that date.

(b) For preneed insurance policies issued on or after the effective date of this section and before January 1, 2012, the 2001 CSO may be used as the minimum standard for reserves and minimum standard for nonforfeiture benefits for both male and female insureds.

(c) If an insurer elects to use the 2001 CSO as a minimum standard for any policy issued on or after the effective date of section 1 and before January 1, 2012, the insurer shall provide, as a part of the actuarial opinion memorandum submitted in support of the company's asset adequacy testing, an annual written notification to the domiciliary commissioner. The notification shall include:

(1) a complete list of all preneed policy forms that use the 2001 CSO as a minimum standard;

(2) a certification signed by the appointed actuary stating that the reserve methodology employed by the company in determining reserves for the preneed policies issued after the effective date and using the 2001 CSO as a minimum standard, develops adequate reserves (For the purposes of this certification, the preneed insurance policies using the 2001 CSO as a minimum standard cannot be aggregated with any other policies.); and

(3) supporting information regarding the adequacy of reserves for preneed insurance policies issued after the effective date of section 1 and using the 2001 CSO as a minimum standard for reserves.

(d) Preneed insurance policies issued on or after January 1, 2012, must use the Ultimate 1980 CSO in the calculation of minimum nonforfeiture values and minimum reserves.

Sec. 15. Minnesota Statutes 2008, section 61B.19, subdivision 4, is amended to read:

Subd. 4. **Limitation of benefits.** The benefits for which the association may become liable shall in no event exceed the lesser of:

(1) the contractual obligations for which the insurer is liable or would have been liable if it were not an impaired or insolvent insurer; or

(2) subject to the limitation in clause (5), with respect to any one life, regardless of the number of policies or contracts:

(i) ~~\$300,000~~ \$500,000 in life insurance death benefits, but not more than ~~\$100,000~~ \$130,000 in net cash surrender and net cash withdrawal values for life insurance;

(ii) ~~\$300,000~~ \$500,000 in health insurance benefits, including any net cash surrender and net cash withdrawal values;

(iii) ~~\$100,000~~ \$250,000 in annuity net cash surrender and net cash withdrawal values;

(iv) ~~\$300,000~~ \$410,000 in present value of annuity benefits for structured settlement annuities or for annuities in regard to which periodic annuity benefits, for a period of not less than the annuitant's lifetime or for a period certain of not less than ten years, have begun to be paid, on or before the date of impairment or insolvency; or

(3) subject to the limitations in clauses (5) and (6), with respect to each individual resident participating in a retirement plan, except a defined benefit plan, established under section 401, 403(b), or 457 of the Internal Revenue Code of 1986, as amended through December 31, 1992, covered by an unallocated annuity contract, or the beneficiaries of each such individual if deceased, in the aggregate, ~~\$100,000~~ \$250,000 in net cash surrender and net cash withdrawal values;

(4) where no coverage limit has been specified for a covered policy or benefit, the coverage limit shall be ~~\$300,000~~ \$500,000 in present value;

(5) in no event shall the association be liable to expend more than ~~\$300,000~~ \$500,000 in the aggregate with respect to any one life under clause (2), items (i), (ii), (iii), (iv), and clause (4), and any one individual under clause (3);

(6) in no event shall the association be liable to expend more than ~~\$7,500,000~~ \$10,000,000 with respect to all unallocated annuities of a retirement plan, except a defined benefit plan, established under section 401, 403(b), or 457 of the Internal Revenue Code of 1986, as amended through December 31, 1992. If total claims from a plan exceed ~~\$7,500,000~~ \$10,000,000, the ~~\$7,500,000~~ \$10,000,000 shall be prorated among the claimants;

(7) for purposes of applying clause (2)(ii) and clause (5), with respect only to health insurance benefits, the term "any one life" applies to each individual covered by a health insurance policy;

(8) where covered contractual obligations are equal to or less than the limits stated in this subdivision, the association will pay the difference between the covered contractual obligations and the amount credited by the estate of the insolvent or impaired insurer, if that amount has been determined or, if it has not, the covered contractual limit, subject to the association's right of subrogation;

(9) where covered contractual obligations exceed the limits stated in this subdivision, the amount payable by the association will be determined as though the covered contractual obligations were equal to those limits. In making the determination, the estate shall be deemed to have credited the covered person the same amount as the estate would credit a covered person with contractual obligations equal to those limits; or

(10) the following illustrates how the principles stated in clauses (8) and (9) apply. The example illustrated concerns hypothetical claims subject to the limit stated in clause (2)(iii). The principles stated in clauses (8) and (9), and illustrated in this clause, apply to claims subject to any limits stated in this subdivision.

CONTRACTUAL OBLIGATIONS OF:

\$50,000

	Estate	Guaranty Association
0% recovery from estate	\$0	\$50,000
25% recovery from estate	\$12,500	\$37,500
50% recovery from estate	\$25,000	\$25,000
75% recovery from estate	\$37,500	\$12,500

\$100,000

	Estate	Guaranty Association
0% recovery from estate	\$0	\$100,000
25% recovery from estate	\$25,000	\$75,000
50% recovery from estate	\$50,000	\$50,000
75% recovery from estate	\$75,000	\$25,000

\$200,000

	Estate	Guaranty Association
0% recovery from estate	\$0	\$100,000
25% recovery from estate	\$50,000	\$75,000
50% recovery from estate	\$100,000	\$50,000
75% recovery from estate	\$150,000	\$25,000

For purposes of this subdivision, the commissioner shall determine the discount rate to be used in determining the present value of annuity benefits.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to member insurers who are first determined to be impaired or insolvent on or after that date. Member insurers who are subject to an order of impairment in effect on the effective date but are not declared insolvent until after the effective date shall continue to be governed by the law in effect prior to the effective date.

Sec. 16. Minnesota Statutes 2008, section 61B.28, subdivision 4, is amended to read:

Subd. 4. **Prohibited sales practice.** No person, including an insurer, agent, or affiliate of an insurer, shall make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in any newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio station or television station, or in any other way, an advertisement, announcement, or statement, written or oral, which uses the existence of the Minnesota Life and Health Insurance Guaranty Association for the purpose of sales, solicitation, or inducement to purchase any form of insurance covered by sections 61B.18 to 61B.32. The notice required by subdivision 8 is not a violation of this subdivision nor is it a violation of this subdivision to explain verbally to an applicant or potential applicant the coverage provided by the Minnesota Life and Health Insurance Guaranty Association at any time during the application process or thereafter. This subdivision does not apply to the Minnesota Life and Health Insurance Guaranty Association or an entity that does not sell or solicit insurance. ~~A person violating this section is guilty of a misdemeanor.~~

Sec. 17. Minnesota Statutes 2008, section 61B.28, subdivision 8, is amended to read:

Subd. 8. **Form.** The form of notice referred to in subdivision 7, paragraph (a), is as follows:

".....
.....
.....
(insert name, current address, and telephone number of insurer)

**NOTICE CONCERNING POLICYHOLDER RIGHTS IN AN
INSOLVENCY UNDER THE MINNESOTA LIFE AND HEALTH
INSURANCE GUARANTY ASSOCIATION LAW**

If the insurer that issued your life, annuity, or health insurance policy becomes impaired or insolvent, you are entitled to compensation for your policy from the assets of that insurer. The amount you recover will depend on the financial condition of the insurer.

In addition, residents of Minnesota who purchase life insurance, annuities, or health insurance from insurance companies authorized to do business in Minnesota are protected, **SUBJECT TO LIMITS AND EXCLUSIONS**, in the event the insurer becomes financially impaired or insolvent. This protection is provided by the Minnesota Life and Health Insurance Guaranty Association.

Minnesota Life and Health Insurance Guaranty Association

(insert current address and telephone number)

The maximum amount the guaranty association will pay for all policies issued on one life by the same insurer is limited to ~~\$300,000~~ \$500,000. Subject to this ~~\$300,000~~ \$500,000 limit, the guaranty association will pay up to ~~\$300,000~~ \$500,000 in life insurance death benefits, ~~\$100,000~~ \$130,000 in net cash surrender and net cash withdrawal values for life insurance, ~~\$300,000~~ \$500,000 in health insurance benefits, including any net cash surrender and net cash withdrawal values, ~~\$100,000~~ \$250,000 in annuity net cash surrender and net cash withdrawal values, ~~\$300,000~~ \$410,000 in present value of annuity benefits for annuities which are part of a structured settlement or for annuities in regard to which periodic annuity benefits, for a period of not less than the annuitant's lifetime or for a period certain of not less than ten years, have begun to be paid on or before the date of impairment or insolvency, or if no coverage limit has been specified for a covered policy or benefit, the coverage limit shall be ~~\$300,000~~ \$500,000 in present value. Unallocated annuity contracts issued to retirement plans, other than defined

benefit plans, established under section 401, 403(b), or 457 of the Internal Revenue Code of 1986, as amended through December 31, 1992, are covered up to ~~\$100,000~~ \$250,000 in net cash surrender and net cash withdrawal values, for Minnesota residents covered by the plan provided, however, that the association shall not be responsible for more than ~~\$7,500,000~~ \$10,000,000 in claims from all Minnesota residents covered by the plan. If total claims exceed ~~\$7,500,000~~ \$10,000,000, the ~~\$7,500,000~~ \$10,000,000 shall be prorated among all claimants. These are the maximum claim amounts. Coverage by the guaranty association is also subject to other substantial limitations and exclusions and requires continued residency in Minnesota. If your claim exceeds the guaranty association's limits, you may still recover a part or all of that amount from the proceeds of the liquidation of the insolvent insurer, if any exist. Funds to pay claims may not be immediately available. The guaranty association assesses insurers licensed to sell life and health insurance in Minnesota after the insolvency occurs. Claims are paid from this assessment.

THE COVERAGE PROVIDED BY THE GUARANTY ASSOCIATION IS NOT A SUBSTITUTE FOR USING CARE IN SELECTING INSURANCE COMPANIES THAT ARE WELL MANAGED AND FINANCIALLY STABLE. IN SELECTING AN INSURANCE COMPANY OR POLICY, YOU SHOULD NOT RELY ON COVERAGE BY THE GUARANTY ASSOCIATION.

THIS NOTICE IS REQUIRED BY MINNESOTA STATE LAW TO ADVISE POLICYHOLDERS OF LIFE, ANNUITY, OR HEALTH INSURANCE POLICIES OF THEIR RIGHTS IN THE EVENT THEIR INSURANCE CARRIER BECOMES FINANCIALLY INSOLVENT. THIS NOTICE IN NO WAY IMPLIES THAT THE COMPANY CURRENTLY HAS ANY TYPE OF FINANCIAL PROBLEMS. ALL LIFE, ANNUITY, AND HEALTH INSURANCE POLICIES ARE REQUIRED TO PROVIDE THIS NOTICE."

Additional language may be added to the notice if approved by the commissioner prior to its use in the form. This section does not apply to fraternal benefit societies regulated under chapter 64B.

Sec. 18. Minnesota Statutes 2008, section 67A.01, is amended to read:

67A.01 NUMBER OF MEMBERS REQUIRED, PROPERTY AND TERRITORY.

Subdivision 1. Number of members. ~~(a)~~ It shall be lawful for any number of persons, not less than 25, residing in adjoining ~~townships~~ counties in this state, who shall collectively own property worth at least \$50,000, to form themselves into a corporation for mutual insurance against loss or damage by the perils listed in section 67A.13.

~~(b) Except as otherwise provided in this section, the company shall operate in no more than 150 adjoining townships in the aggregate at the same time. The company may, if approval has been granted by the commissioner, operate in more than 150 adjoining townships in the aggregate at the same time, subject to a maximum of 300 townships. If the company confines its operations to one county it may transact business in that county by so providing in its certificate of incorporation. In case of merger of two or more companies having contiguous territories, the surviving company in the merger may transact business in the entire territory of the merged companies, but the territory of the surviving company in the merger must not be larger than 300 townships.~~

Subd. 2. Authorized territory. (a) A township mutual fire insurance company may be authorized to write business in up to nine adjoining counties in the aggregate at the same time. If policyholder surplus is at least \$500,000 as reported in the company's last annual financial statement filed with the commissioner, the company may, if approval has been granted by the commissioner, be authorized to write business in ten or more counties in the aggregate at the same time, subject to a maximum of 20 adjoining counties, in accordance with the following schedule:

<u>Number of Counties</u>	<u>Surplus Requirement</u>
<u>10</u>	<u>\$500,000</u>
<u>11</u>	<u>600,000</u>
<u>12</u>	<u>700,000</u>

<u>13</u>	<u>800,000</u>
<u>14</u>	<u>900,000</u>
<u>15</u>	<u>1,000,000</u>
<u>16</u>	<u>1,100,000</u>
<u>17</u>	<u>1,200,000</u>
<u>18</u>	<u>1,300,000</u>
<u>19</u>	<u>1,400,000</u>
<u>20</u>	<u>1,500,000</u>

(b) In the case of a merger of two or more companies having contiguous territories, the surviving company in the merger may transact business in the entire territory of the merged companies; however, the territory of the surviving company in the merger may not be larger than 20 counties.

(c) A township mutual fire insurance company may write new and renewal insurance on property in cities within the company's authorized territory having a population less than 25,000. A township mutual may continue to write new and renewal insurance once the population increases to 25,000 or greater provided that amended and restated articles are filed with the commissioner along with a certification that such city's population has increased to 25,000 or greater.

(d) A township mutual fire insurance company may write new and renewal insurance on property in cities within the company's authorized territory with a population of 25,000 or greater, but less than 150,000, if approval has been granted by the commissioner. No township mutual fire insurance company shall insure any property in cities with a population of 150,000 or greater.

(e) If a township mutual fire insurance company provides evidence to the commissioner that the company had insurance in force on December 31, 2007, in a city within the company's authorized territory with a population of 25,000 or greater, but less than 150,000, the company may write new and renewal insurance on property in that city provided that the company files amended and restated articles by July 31, 2010, naming that city.

Sec. 19. Minnesota Statutes 2008, section 67A.06, is amended to read:

67A.06 POWERS OF CORPORATION.

Every corporation formed under the provisions of sections 67A.01 to 67A.26, shall have power:

- (1) to have succession by its corporate name for the time stated in its certificate of incorporation;
- (2) to sue and be sued in any court;
- (3) to have and use a common seal and alter the same at pleasure;
- (4) to acquire, by purchase or otherwise, and to hold, enjoy, improve, lease, encumber, and convey all real and personal property necessary for the purpose of its organization, subject to such limitations as may be imposed by law or by its articles of incorporation;
- (5) to elect or appoint in such manner as it may determine all necessary or proper officers, agents, boards, and committees, fix their compensation, and define their powers and duties;
- (6) to make and amend consistently with law bylaws providing for the management of its property and the regulation and government of its affairs;

(7) to wind up and liquidate its business in the manner provided by chapter 60B; ~~and~~

(8) to indemnify certain persons against expenses and liabilities as provided in section 302A.521. In applying section 302A.521 for this purpose, the term "members" shall be substituted for the terms "shareholders" and "stockholders-"; and

(9) to eliminate or limit a director's personal liability to the company or its members for monetary damages for breach of fiduciary duty as a director. A company shall not eliminate or limit the liability of a director:

(i) for breach of loyalty to the company or its members;

(ii) for acts or omissions made in bad faith or with intentional misconduct or knowing violation of law;

(iii) for transactions from which the director derived an improper personal benefit; or

(iv) for acts or omissions occurring before the date that the provisions in the articles eliminating or limiting liability become effective.

Sec. 20. Minnesota Statutes 2008, section 67A.07, is amended to read:

67A.07 PRINCIPAL OFFICE.

The principal office of a township mutual fire insurance company shall be located in a ~~township or in a city in a township~~ county in which the company is authorized to do business.

Sec. 21. Minnesota Statutes 2008, section 67A.14, subdivision 1, is amended to read:

Subdivision 1. **Kinds of property; property outside authorized territory.** (a) Township mutual fire insurance companies may insure qualified property. Qualified property means dwellings, household goods, appurtenant structures, farm buildings, farm personal property, churches, church personal property, county fair buildings, community and township meeting halls and their usual contents.

(b) Township mutual fire insurance companies may extend coverage to include an insured's secondary property if the township mutual fire insurance company covers qualified property belonging to the insured. Secondary property means any real or personal property that is not considered qualified property for a township mutual fire insurance company to cover under this chapter. The maximum amount of coverage that a township mutual fire insurance company may write for secondary property is 25 percent of the total limit of liability of the policy issued to an insured covering the qualified property.

(c) A township mutual fire insurance company may insure any real or personal property, including qualified or secondary property, subject to the limitations in subdivision 1, paragraph (b), located outside the limits of the territory in which the company is authorized by its certificate or articles of incorporation to transact business, if the company is already covering qualified property belonging to the insured, inside the limits of the company's territory.

(d) A township mutual fire insurance company may insure property temporarily outside of the authorized territory of the township mutual fire insurance company.

Sec. 22. Minnesota Statutes 2008, section 67A.14, subdivision 7, is amended to read:

Subd. 7. **Amount of insurable risk.** No township mutual fire insurance company shall insure or reinsure a single risk or hazard in a larger sum than the greater of \$3,000, or one tenth of its net assets plus two tenths of a mill of its insurance in force; provided that no portion of any such risk or hazard which shall have been reinsured, as authorized by the laws of this state, shall be included in determining the limitation of risk prescribed by this subdivision.

Sec. 23. **[67A.175] SURPLUS REQUIREMENTS.**

Subdivision 1. **Minimum.** Township mutual fire insurance companies shall maintain a minimum policyholders' surplus of \$300,000 at all times.

Subd. 2. **Corrective action plan; filing.** A township mutual fire insurance company that falls below the \$300,000 minimum surplus requirement must file a corrective action plan with the commissioner. The plan shall state how the company will correct its surplus deficiency. The plan must be submitted within 45 days of the company falling below the minimum surplus level.

Subd. 3. **Corrective action plan; commissioner's notification.** Within 30 days after the submission by a township mutual fire insurance company of a corrective action plan, the commissioner shall notify the insurer whether the plan may be implemented or is, in the judgment of the commissioner, unsatisfactory. If the commissioner determines the plan is unsatisfactory, the notification to the company must set forth the reasons for the determination, and may set forth proposed revisions that will render the plan satisfactory in the judgment of the commissioner. Upon notification from the commissioner, the insurer shall prepare a revised corrective action plan that may incorporate by reference any revisions proposed by the commissioner, and shall submit the revised plan to the commissioner within 45 days.

Sec. 24. Minnesota Statutes 2008, section 67A.18, subdivision 1, is amended to read:

Subdivision 1. **By member.** Any member may terminate membership in the company by giving written notice or returning the member's policy to the secretary ~~and paying the withdrawing member's share of all existing claims.~~

Sec. 25. **REPEALER.**

Subdivision 1. **Annual audits.** Minnesota Statutes 2008, section 60A.129, is repealed.

Subd. 2. **Township mutual insured properties, joint or partial risks, and assessments.** Minnesota Statutes 2008, sections 67A.14, subdivision 5; 67A.17; and 67A.19, are repealed.

Subd. 3. **Banking procedures; real estate tax records.** Minnesota Rules, part 2675.2180, is repealed.

Subd. 4. **Debt prorating companies.** Minnesota Rules, parts 2675.7100; 2675.7110; 2675.7120; 2675.7130; and 2675.7140, are repealed.

Subd. 5. **Guaranty association; inflation indexing.** Minnesota Statutes 2008, section 61B.19, subdivision 6, is repealed."

Delete the title and insert:

"A bill for an act relating to commerce; regulating consumer small loan lenders and residential mortgage originators and servicers; modifying bank restrictions on holding real estate; providing for the calculation of reserves and nonforfeiture values of preneed funeral insurance contracts; revising annual audit requirements for insurers; regulating life and health guaranty association benefit limits and notices; removing inflation indexing; regulating the

powers of, and surplus requests for, township mutuals; imposing penalties; amending Minnesota Statutes 2008, sections 47.58, subdivision 1; 47.60, subdivisions 1, 3, 6; 48.21; 58.05, subdivision 3; 58.06, subdivision 2; 58.126; 58.13, subdivision 1; 60A.124; 60B.03, subdivision 15; 60L.02, subdivision 3; 61B.19, subdivision 4; 61B.28, subdivisions 4, 8; 67A.01; 67A.06; 67A.07; 67A.14, subdivisions 1, 7; 67A.18, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 60A; 61A; 67A; repealing Minnesota Statutes 2008, sections 60A.129; 61B.19, subdivision 6; 67A.14, subdivision 5; 67A.17; 67A.19; Minnesota Rules, parts 2675.2180; 2675.7100; 2675.7110; 2675.7120; 2675.7130; 2675.7140."

With the recommendation that when so amended the bill pass.

The report was adopted.

Thissen from the Committee on Health Care and Human Services Policy and Oversight to which was referred:

H. F. No. 2069, A bill for an act relating to human services; creating chemical health pilot projects; requiring reports.

Reported the same back with the following amendments:

Page 2, line 33, delete "Each pilot project" and insert "The Department of Human Services"

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

The report was adopted.

Slawik from the Early Childhood Finance and Policy Division to which was referred:

H. F. No. 2124, A bill for an act relating to human services; modifying licensing requirements related to child care centers; amending Minnesota Statutes 2008, sections 245A.06, subdivision 8; 245A.07, subdivision 5; 245C.301.

Reported the same back with the following amendments:

Page 2, line 30, after the period, insert "An investigation memorandum posted under section 245A.06, subdivision 8, or section 245A.07, subdivision 5, that reports the disqualification of the individual who is the subject of the notice under this paragraph is no longer required to be posted after the license holder provides the notice required under this paragraph."

With the recommendation that when so amended the bill pass.

The report was adopted.

Eken from the Committee on Environment Policy and Oversight to which was referred:

H. F. No. 2133, A bill for an act relating to environment; modifying regulation of storm water discharges; appropriating money; amending Minnesota Statutes 2008, section 115.03, subdivision 5c.

Reported the same back with the following amendments:

Page 1, line 19, after the period, insert "For the purposes of this section, "low impact development" means an approach to storm water management that mimics a site's natural hydrology as the landscape is developed. Using the low impact development approach, storm water is managed on site and the rate and volume of predevelopment storm water reaching receiving waters is unchanged. The calculation of predevelopment hydrology is based on native soil and vegetation."

Page 2, line 1, delete "2012" and insert "2013"

Page 2, line 3, after "chairs" insert "and ranking minority members" and after "committees" insert "and divisions"

Page 2, line 4, after "policy" insert "and finance"

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

The report was adopted.

Thissen from the Committee on Health Care and Human Services Policy and Oversight to which was referred:

S. F. No. 29, A bill for an act relating to health; changing a provision for pharmacy practice in administering influenza vaccines; amending Minnesota Statutes 2008, section 151.37, subdivision 2.

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

The report was adopted.

Thissen from the Committee on Health Care and Human Services Policy and Oversight to which was referred:

S. F. No. 213, A bill for an act relating to health; providing that WIC coupons may be used to purchase cost-neutral organic food; proposing coding for new law in Minnesota Statutes, chapter 145.

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

The report was adopted.

Thissen from the Committee on Health Care and Human Services Policy and Oversight to which was referred:

S. F. No. 230, A bill for an act relating to occupations and professions; creating licensure for physician assistants; amending Minnesota Statutes 2008, sections 144.1501, subdivision 1; 144E.001, subdivisions 3a, 9c; 147.09; 147A.01; 147A.02; 147A.03; 147A.04; 147A.05; 147A.06; 147A.07; 147A.08; 147A.09; 147A.11; 147A.13; 147A.16; 147A.18; 147A.19; 147A.20; 147A.21; 147A.23; 147A.24; 147A.26; 147A.27; 169.345, subdivision 2; 253B.02, subdivision 7; 253B.05, subdivision 2; 256B.0625, subdivision 28a; 256B.0751, subdivision 1; repealing Minnesota Statutes 2008, section 147A.22.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 256B.04, subdivision 14a, is amended to read:

Subd. 14a. **Level of need determination.** Nonemergency medical transportation level of need determinations must be performed by a physician, a registered nurse working under direct supervision of a physician, a physician's assistant, a nurse practitioner, a licensed practical nurse, or a discharge planner. Nonemergency medical transportation level of need determinations must not be performed more than semiannually on any individual, unless the individual's circumstances have sufficiently changed so as to require a new level of need determination. Nonemergency medical transportation level of need determinations must not be performed more than every seven years on an individual, if a physician certifies that the individual's medical condition that requires the use of nonemergency medical transportation is permanent and is not likely to improve, and this certification by the physician is confirmed by a level of need determination. Individuals residing in licensed nursing facilities are exempt from a level of need determination and are eligible for special transportation services until the individual no longer resides in a licensed nursing facility. If a person authorized by this subdivision to perform a level of need determination determines that an individual requires stretcher transportation, the individual is presumed to maintain that level of need until otherwise determined by a person authorized to perform a level of need determination, or for six months, whichever is sooner.

Sec. 2. Minnesota Statutes 2008, section 256B.0625, subdivision 17, is amended to read:

Subd. 17. **Transportation costs.** (a) For purposes of this subdivision, the following terms have the meanings given unless otherwise provided for in this subdivision:

(1) "special transportation" means nonemergency medical transportation to or from a covered service that is provided to a recipient who has a physical or mental impairment that prohibits the recipient from independently and safely accessing and using a bus, taxi, other commercial transportation, or private automobile;

(2) "access transportation service" means curb-to-curb nonemergency medical transportation to or from a covered service that is provided to a recipient without a physical or mental impairment, but who requires transportation services to be able to access a covered service, and who are unable to do so by bus or private automobile; and

(3) "medical transportation" means the transport of a recipient to obtain a covered service or the transport of a recipient after the covered service is provided.

(b) Medical assistance covers medical transportation costs incurred solely for obtaining emergency medical care or transportation costs incurred by eligible persons in obtaining emergency or nonemergency medical care when paid directly to an ambulance company, common carrier, or other recognized providers of transportation services. Medical transportation must be provided by:

(1) an ambulance, as defined in section 144E.001, subdivision 2;

(2) special transportation;

(3) access transportation; or

(4) other common carrier, including but not limited to, bus, taxi, other commercial carrier, or private automobile.

(b) Medical assistance covers special transportation, as defined in Minnesota Rules, part 9505.0315, subpart 1, item F, if the recipient has a physical or mental impairment that would prohibit the recipient from safely accessing and using a bus, taxi, other commercial transportation, or private automobile.

(c) "Rural urban commuting area" or "RUCA" means an area determined to be urban, rural, or super rural by the Centers for Medicare and Medicaid Services for purposes of Medicare reimbursement of ambulance services.

The commissioner may use an order by the recipient's attending physician to certify that the recipient requires special transportation services. Special transportation ~~includes~~ providers shall perform driver-assisted ~~service to services~~ for eligible individuals. Driver-assisted service includes passenger pickup at and return to the individual's residence or place of business, assistance with admittance of the individual to the medical facility, and assistance in passenger securement or in securing of wheelchairs or stretchers in the vehicle. Special transportation providers must obtain written documentation from the health care service provider who is serving the recipient being transported, identifying the time that the recipient arrived. Special transportation and access transportation providers may not bill for separate base rates for the continuation of a trip beyond the original destination. Special transportation and access transportation providers must take recipients to the nearest appropriate health care provider, using the most direct route available as determined by a commercially available software program approved by the commissioner and designated by the provider as the program to be used to determine the route and mileage for all trips. The ~~maximum~~ minimum medical assistance reimbursement rates for ~~special~~ nonemergency medical transportation services are:

(1) for areas defined under RUCA as urban:

~~(1)~~ (i) \$17 for the base rate and \$1.35 per mile for special transportation services to eligible persons who need a wheelchair-accessible van;

~~(2)~~ (ii) \$11.50 for the base rate and \$1.30 per mile for special transportation services to eligible persons who do not need a wheelchair-accessible van; and

(iii) \$10 for the base rate and \$1.35 per mile for access transportation services to eligible persons who need a wheelchair-accessible van;

(iv) \$10 for the base rate and \$1.30 per mile for access transportation services to eligible persons who do not need a wheelchair-accessible van;

~~(3)~~ (v) \$60 for the base rate and \$2.40 per mile, and an attendant rate of \$9 per trip, for services to eligible persons who need a stretcher-accessible vehicle; and

(vi) for all special transportation and access transportation services for a trip equal to or exceeding 51 miles, the provider shall receive mileage reimbursement for each mile equal to or exceeding 51 miles at 125 percent of the respective mileage rates in this clause;

(2) the base rates for special transportation services and access transportation in areas defined under RUCA as rural, shall be equal to the reimbursement rate established in clause (1) plus one percent;

(3) the base rate for special transportation and access transportation services in areas defined under RUCA as super rural shall be equal to the reimbursement rate established in clause (1) plus 22.6 percent; and

(4) for special transportation and access transportation services defined under RUCA as rural and super rural areas;

(i) for a trip equal to 17 miles or less, mileage reimbursement shall be equal to 150 percent of the respective mileage rate in clause (1);

(ii) for a trip between 18 and 50 miles, mileage reimbursement shall be equal to 100 percent of the respective mileage rate in clause (1); and

(iii) for a trip equal to or exceeding 51 miles, mileage reimbursement shall be equal to 125 percent of the respective mileage rate in clause (1), items (i) to (v).

(d) For purposes of reimbursement rates for special transportation and access transportation services under paragraph (c), the recipient's place of residence shall determine whether the urban, rural, or super rural reimbursement rate applies.

(e) For all special transportation and access transportation services, the transportation provider must obtain delivery confirmation of the recipient by the medical provider to whom the recipient is delivered.

Sec. 3. Minnesota Statutes 2008, section 256B.0625, is amended by adding a subdivision to read:

Subd. 17b. **Broker dispatching prohibition.** The commissioner shall not use a broker or coordinator to manage or dispatch nonemergency medical transportation services.

Sec. 4. **REIMBURSEMENT REFORM ACT.**

This act shall be referred to as the "Nonemergency Medical Transportation Reform Act of 2009."

Delete the title and insert:

"A bill for an act relating to health; clarifying nonemergency medical transportation level of care and transportation costs; prohibiting a broker or coordinator from dispatching nonemergency medical transportation; amending Minnesota Statutes 2008, sections 256B.04, subdivision 14a; 256B.0625, subdivision 17, by adding a subdivision."

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

The report was adopted.

Hornstein from the Transportation and Transit Policy and Oversight Division to which was referred:

S. F. No. 740, A bill for an act relating to highways; authorizing use by the county of Anoka of a design-build process to award contract for construction of intersection of U.S. Highway 10 and County State-Aid Highway 83.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. **DESIGN-BUILD PILOT PROGRAM.**

Subdivision 1. **Definitions.** The following terms have the meanings given:

(1) "commissioner" means the commissioner of transportation;

(2) "municipality" means the board of commissioners of Anoka or Dakota County;

(3) "design-build contract" means a single contract between a municipality and a design-build company or firm to furnish the architectural or engineering and related design services as well as the labor, material, supplies, equipment, and construction services for a pilot project;

(4) "design-build firm" means a proprietorship, partnership, limited liability partnership, joint venture, corporation, any type of limited liability company, professional corporation, or any legal entity;

(5) "design professional" means a person who holds a license under Minnesota Statutes, chapter 326B, that is required to be registered under Minnesota law;

(6) "design-build transportation project" means the procurement of both the design and construction of a pilot project in a single contract with a company or companies capable of providing the necessary engineering services and construction;

(7) "design-builder" means the design-build firm that proposes to design and build a pilot project governed by the procedures of this section;

(8) "pilot project" means (1) the reconstruction of the intersection at marked Trunk Highway 10 and Anoka County State-Aid Highway 83, or (2) construction of an interchange at marked Trunk Highway 13 and Dakota County State-Aid Highway 5 in Burnsville;

(9) "request for proposals" or "RFP" means the document by which the municipality solicits proposals from qualified design-build firms to design and construct a pilot project;

(10) "request for qualifications" or "RFQ" means a document to qualify potential design-build firms; and

(11) "responsive proposal" means a technical proposal of which no major component contradicts the goals of the project, significantly violates an RFP requirement, or places conditions on a proposal.

Subd. 2. Pilot program established. (a) The commissioner and each participating municipality shall conduct a design-build contracting pilot program to support and evaluate the use of the design-build method of contracting by counties and statutory and home rule charter cities in constructing, improving, and maintaining streets and highways on the state-aid system.

(b) Subject to the requirements of this section and as appropriate under that municipality's jurisdiction, a municipality may use the design-build method of contracting for (1) reconstruction of the intersection at marked Trunk Highway 10 and Anoka County State-Aid Highway 83, and (2) construction of an interchange at marked Trunk Highway 13 and Dakota County State-Aid Highway 5 in Burnsville.

Subd. 3. Licensing requirements. (a) Each design-builder shall employ, or have as a partner, member, officer, coventurer, or subcontractor, a person duly licensed and registered to provide the design services required to complete the project and do business in the state.

(b) A design-builder may enter into a contract to provide professional or construction services for a project that the design-builder is not licensed, registered, or qualified to perform, so long as the design-builder provides those services through subcontractors with duly licensed, registered, or otherwise qualified individuals in accordance with Minnesota Statutes, sections 161.3410 to 161.3428.

(c) Nothing in this section authorizing design-build contracts is intended to limit or eliminate the responsibility or liability owed by a professional on a design-build project to the state, municipality, or other third party under existing law.

(d) The design service portion of a design-build contract must be considered a service and not a product.

Subd. 4. **Information session for municipal engineer.** The commissioner or the commissioner's designee with design-build experience shall conduct an information session for the municipality's engineer for each pilot project, in which issues unique to design-build must be discussed, including, but not limited to, writing an RFP, project oversight requirements, assessing risk, and communication with the design-build firm. After participation in the information session, the municipality's engineer may solicit proposals under subdivision 6 for the pilot project.

Subd. 5. **Technical Review Committee.** During the phase one RFQ and before solicitation, the municipality shall appoint a Technical Review Committee of at least five individuals. The Technical Review Committee must include an individual whose name and qualifications are submitted to the municipality by the Minnesota chapter of the Associated General Contractors, after consultation with other commercial contractor associations in the state. Members of the Technical Review Committee who are not state employees are subject to the Minnesota Government Data Practices Act and Minnesota Statutes, section 16C.06, to the same extent that state agencies are subject to those provisions. A Technical Review Committee member may not participate in the review or discussion of responses to the RFQ or RFP when a design-build firm in which the member has a financial interest has responded to the RFQ or RFP. "Financial interest" includes, but is not limited to, being or serving as an owner, employee, partner, limited liability partner, shareholder, joint venturer, family member, officer, or director of a design-build firm responding to an RFQ or RFP for a specific project, or having any other economic interest in that design-build firm. The members of the Technical Review Committee must be treated as municipal employees in the event of litigation resulting from any action arising out of their service on the committee.

Subd. 6. **Phase one; design-build RFQ.** The municipality shall prepare an RFQ, which must include the following:

- (1) the minimum qualifications of design-builders necessary to meet the requirements for acceptance;
- (2) a scope of work statement and schedule;
- (3) documents defining the project requirements;
- (4) the form of contract to be awarded;
- (5) the weighted selection criteria for compiling a short list and the number of firms to be included in the short list, which must be at least two but not more than five;
- (6) a description of the request for proposals (RFP) requirements;
- (7) the maximum time allowed for design and construction;
- (8) the municipality's estimated cost of design and construction;
- (9) requirements for construction experience, design experience, financial, personnel, and equipment resources available from potential design-builders for the project and experience in other design-build transportation projects or similar projects, provided that these requirements may not unduly restrict competition; and
- (10) a statement that "past performance" or "experience" or other criteria used in the RFQ evaluation process does not include the exercise or assertion of a person's legal rights.

Subd. 7. **Information session for prospective design-build firms.** After an RFQ solicitation for a pilot project is made, any prospective design-build firm shall attend a design-build information session conducted by the commissioner or the commissioner's designee with design-build experience. The information must include information about design-build contracts, including, but not limited to, communication with partner firms, project oversight requirements, assessing risk, and communication with the municipality's engineer. After participation in the information session, the design-build firm is eligible to bid on the pilot project and any future design-build pilot program projects under this section.

Subd. 8. **Evaluation; short list.** The selection team shall evaluate the design-build qualifications of responding firms and shall compile a short list of no more than five most highly qualified firms in accordance with qualifications criteria described in the RFQ. If only one design-build firm responds to the RFQ or remains on the short list, the municipality may readvertise or cancel the project as the municipality deems necessary.

Subd. 9. **Phase two; design-build RFP.** The municipality shall prepare an RFP, which must include:

(1) the scope of work, including (i) performance and technical requirements, (ii) conceptual design, (iii) specifications, and (iv) functional and operational elements for the delivery of the completed project, all of which must be prepared by a registered or licensed professional engineer;

(2) copies of the contract documents that the successful proposer will be expected to sign;

(3) the maximum time allowable for design and construction;

(4) the road authority's estimated cost of design and construction;

(5) the requirement that a submitted proposal be segmented into two parts, a technical proposal and a price proposal;

(6) the requirement that each proposal be in a separately sealed, clearly identified package and include the date and time of the submittal deadline;

(7) the requirement that the technical proposal include a critical path method, bar schedule of the work to be performed, or similar schematic; preliminary design plans and specifications; technical reports; calculations; permit requirements; applicable development fees; and other data requested in the RFP;

(8) the requirement that the price proposal contain all design, construction, engineering, inspection, and construction costs of the proposed project;

(9) the date, time, and location of the public opening of the sealed price proposals;

(10) the amount of, and eligibility for, a stipulated fee;

(11) other information relevant to the project; and

(12) a statement that "past performance," "experience," or other criteria used in the RFP evaluation process does not include the exercise or assertion of a person's legal rights.

Subd. 10. Design-build award; computation; announcement. (a) A design-build contract must be awarded as follows.

(b) The Technical Review Committee shall score the technical proposals of the proposers selected under subdivision 8 using the selection criteria in the RFP. The Technical Review Committee shall then submit a technical proposal score for each design-builder to the municipality. The Technical Review Committee shall reject any nonresponsive proposal. The municipality shall review the technical proposal scores.

(c) The commissioner or the commissioner's designee shall review the technical proposal scores. The commissioner shall submit the final technical proposal scores to the municipality.

(d) The municipality shall announce the technical proposal score for each design-builder and shall publicly open the sealed price proposals and shall divide each design-builder's price by the technical score that the commissioner has given to it to obtain an adjusted score. The design-builder selected must be that responsive and responsible design-builder whose adjusted score is the lowest.

(e) If a time factor is included with the selection criteria in the RFP package, the municipality may use a value of the time factor established by the municipality as a criterion in the RFP.

(f) Unless all proposals are rejected, the municipality shall award the contract to the responsive and responsible design-builder with the lowest adjusted score. The municipality shall reserve the right to reject all proposals.

(g) The municipality shall award a stipulated fee not less than two-tenths of one percent of the municipality's estimated cost of design and construction to each short-listed, responsible proposer who provides a responsive but unsuccessful proposal. If the municipality does not award a contract, all short-listed proposers must receive the stipulated fee. If the municipality cancels the contract before reviewing the technical proposals, the municipality shall award each design-builder on the short list a stipulated fee of not less than two-tenths of one percent of the municipality's estimated cost of design and construction. The municipality shall pay the stipulated fee to each proposer within 90 days after the award of the contract or the decision not to award a contract. In consideration for paying the stipulated fee, the municipality may use any ideas or information contained in the proposals in connection with any contract awarded for the project or in connection with a subsequent procurement, without any obligation to pay any additional compensation to the unsuccessful proposers. Notwithstanding the other provisions of this subdivision, an unsuccessful short-list proposer may elect to waive the stipulated fee. If an unsuccessful short-list proposer elects to waive the stipulated fee, the municipality may not use ideas and information contained in that proposer's proposal. Upon the request of the municipality, a proposer who waived a stipulated fee may withdraw the waiver, in which case the municipality shall pay the stipulated fee to the proposer and thereafter may use ideas and information in the proposer's proposal.

Subd. 11. Low-bid design-build process. (a) The municipality may also use low-bid, design-build procedures to award a design-build contract where the scope of the work can be clearly defined.

(b) Low-bid design-build projects may require an RFQ and short-listing, and must require an RFP.

(c) Submitted proposals under this subdivision must include separately a technical proposal and a price proposal. The low-bid, design-build procedures must follow a two-step process for review of the responses to the RFP as follows:

(1) the first step is the review of the technical proposal by the Technical Review Committee as provided in subdivision 5. The Technical Review Committee must open the technical proposal first and must determine if it complies with the requirements of the RFP and is responsive. The Technical Review Committee may not perform any ranking or scoring of the technical proposals; and

(2) the second step is the determination of the low bidder based on the price proposal. The municipality may not open the price proposal until the review of the technical proposal is complete.

(d) The contract award under low-bid, design-build procedures must be made to the proposer whose sealed bid is responsive to the technical requirements as determined by the Technical Review Committee and that is also the lowest bid.

(e) A stipulated fee may be paid for unsuccessful bids on low-bid, design-build projects only when the municipality has required an RFQ and short-listed the most highly qualified responsive bidders.

Subd. 12. **Legislative report.** By December 15, 2011, the commissioner shall submit a report on the pilot program to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over transportation policy and finance. The report must, at a minimum:

(1) summarize each pilot project, including the contracting process and project costs;

(2) evaluate the process and results applying the performance-based measures with which the commissioner evaluates trunk highway design-build projects; and

(3) identify any recommendations for future legislation.

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

Delete the title and insert:

"A bill for an act relating to highways; establishing a pilot program to authorize use of a design-build contracting process for certain highway construction projects."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on State and Local Government Operations Reform, Technology and Elections.

The report was adopted.

SECOND READING OF HOUSE BILLS

H. F. Nos. 572, 928, 1056, 1198, 1678, 1708, 1820, 2028, 2029 and 2124 were read for the second time.

SECOND READING OF SENATE BILLS

S. F. Nos. 764, 811, 29 and 213 were read for the second time.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House Files were introduced:

Bunn and Lenczewski introduced:

H. F. No. 2277, A bill for an act relating to state finance; establishing a capital gains volatility reduction account; directing the commissioner of finance to adjust amounts in the account based on forecasts of individual income tax revenue resulting from taxation of capital gains income in comparison to a five-year average; amending Minnesota Statutes 2008, section 16A.152, by adding a subdivision.

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

Atkins introduced:

H. F. No. 2278, A bill for an act relating to transportation; modifying penalties and requirements related to violation of vehicle weight limitations; amending Minnesota Statutes 2008, sections 169.80, subdivision 1; 169.871, subdivision 1.

The bill was read for the first time and referred to the Transportation and Transit Policy and Oversight Division.

Davnie introduced:

H. F. No. 2279, A bill for an act relating to housing; creating a pilot program to stabilize market values of residential real estate in certain areas; providing a five-year guarantee against depreciation in value of certain properties; providing incentives to restructure mortgage loans; authorizing rulemaking; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 462A.

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

Severson introduced:

H. F. No. 2280, A bill for an act relating to taxation; city of Sauk Rapids; extending the time to establish a tax increment financing district.

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

Fritz introduced:

H. F. No. 2281, A bill for an act relating to taxation; job opportunity building zones; authorizing a duration extension for a zone in the city of Faribault.

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

Davids introduced:

H. F. No. 2282, A bill for an act relating to capital improvements; appropriating money for energy efficiency improvements in the Caledonia City Hall; authorizing the sale and issuance of state bonds.

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

Davids introduced:

H. F. No. 2283, A bill for an act relating to capital improvements; appropriating money for the wastewater treatment plant in Caledonia; authorizing the sale and issuance of state bonds.

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

Davids introduced:

H. F. No. 2284, A bill for an act relating to capital improvements; appropriating money for sewer and water infrastructure in Caledonia; authorizing the sale and issuance of state bonds.

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

Hansen, Davids, Urdahl and Thao introduced:

H. F. No. 2285, A bill for an act relating to arts and cultural heritage; establishing a grant program for historic sites; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 138.

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

Murphy, E., and Davnie introduced:

H. F. No. 2286, A bill for an act relating to economic development; appropriating money for a capacity building grant for financial counseling program expansion.

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

Hilty introduced:

H. F. No. 2287, A bill for an act relating to energy; appropriating money for a grant to the Natural Resources and Research Institute at the University of Minnesota, Duluth.

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

Welti and Hansen introduced:

H. F. No. 2288, A bill for an act relating to natural resources; appropriating money to inventory, assess, and monitor springs.

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

Thao introduced:

H. F. No. 2289, A bill for an act relating to agriculture; appropriating money for a grant to reimburse expenses for certain farmers incurring crop damages.

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

Persell introduced:

H. F. No. 2290, A bill for an act relating to natural resources; providing for local grant program to acquire and manage aquatic management areas; appropriating money; amending Minnesota Statutes 2008, sections 84.975, subdivision 1; 86A.05, subdivision 14; 97C.02.

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

Swails introduced:

H. F. No. 2291, A bill for an act relating to education finance; appropriating money for teacher licensure by portfolio.

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

Haws introduced:

H. F. No. 2292, A bill for an act relating to local government; providing for certain cooperative service plans; providing a special levy; amending Minnesota Statutes 2008, section 275.70, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 465.

The bill was read for the first time and referred to the Committee on State and Local Government Operations Reform, Technology and Elections.

Kalin introduced:

H. F. No. 2293, A bill for an act relating to the state procurement; establishing program to aggregate purchases of green products for state agencies; proposing coding for new law in Minnesota Statutes, chapter 16C.

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

Hortman introduced:

H. F. No. 2294, A bill for an act relating to transportation; amending the trunk highway bridge improvement program requirements; amending trunk highway bond authorization; amending Minnesota Statutes 2008, section 165.14, subdivisions 2, 4, 5; Laws 2008, chapter 152, article 2, section 3, subdivision 2.

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

Hansen introduced:

H. F. No. 2295, A bill for an act relating to natural resources; authorizing sale of department gift cards and certificates; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 84.

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

Atkins introduced:

H. F. No. 2296, A bill for an act relating to commerce; regulating tanning facilities; prohibiting use by certain minors; proposing coding for new law in Minnesota Statutes, chapter 325H; repealing Minnesota Statutes 2008, section 325H.08.

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

MESSAGES FROM THE SENATE

The following message was received from the Senate:

Madam Speaker:

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

S. F. Nos. 10, 550, 643, 1012, 1454, 1904 and 1091.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

FIRST READING OF SENATE BILLS

S. F. No. 10, A bill for an act relating to education finance; requiring school districts to use shared services and make purchases through the cooperative purchasing venture; requiring the Department of Education to hire a consultant to work with districts to share services; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 123B.

The bill was read for the first time and referred to the Committee on K-12 Education Policy and Oversight.

S. F. No. 550, A bill for an act relating to energy; providing for energy conservation; regulating utility rates; removing prohibition on issuing certificate of need for new nuclear power plant; providing for various Legislative Energy Commission studies; regulating utilities; amending Minnesota Statutes 2008, sections 216A.03, subdivision 6, by adding a subdivision; 216B.16, subdivisions 2, 6c, 7b, by adding a subdivision; 216B.1645, subdivision 2a; 216B.169, subdivision 2; 216B.1691, subdivision 2a; 216B.23, by adding a subdivision; 216B.241, subdivisions 1c, 5a, 9; 216B.2411, subdivisions 1, 2; 216B.2424, subdivision 5a; 216B.243, subdivisions 3b, 8, 9; 216C.11; proposing coding for new law in Minnesota Statutes, chapter 216C; repealing Laws 2007, chapter 3, section 3.

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

S. F. No. 643, A bill for an act relating to unemployment compensation; providing eligibility for benefits under certain training programs.

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

S. F. No. 1012, A bill for an act relating to state government; appropriating money for environment and natural resources.

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

S. F. No. 1454, A bill for an act relating to unemployment insurance; providing for a shared work plan; proposing coding for new law in Minnesota Statutes, chapter 268; repealing Minnesota Statutes 2008, section 268.135.

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

S. F. No. 1904, A bill for an act relating to insurance; regulating continuation coverage; conforming Minnesota law to the requirements necessary for assistance eligible individuals who are not enrolled in continuation coverage to receive a federal premium subsidy under the American Recovery and Reinvestment Act of 2009; amending Minnesota Statutes 2008, section 62A.17, by adding a subdivision.

The bill was read for the first time.

Atkins moved that S. F. No. 1904 and H. F. No. 2138, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 1091, A bill for an act relating to transportation; restricting weight limits on the Stillwater Lift Bridge.

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

FISCAL CALENDAR

Pursuant to rule 1.22, Solberg requested immediate consideration of H. F. No. 855.

H. F. No. 855 was reported to the House.

Dean moved to amend H. F. No. 855, the second engrossment, as follows:

Page 33, after line 23, insert:

"Sec. 48. **CANCELLATION IN TWO YEARS.**

The cancellation report submitted January 1, 2011, under Minnesota Statutes, section 16A.642, must include all capital appropriations made in this act that meet the criteria for, and with the effect of, inclusion in the report, but without regard to when the appropriation was made."

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 Dean amendment and the roll was called. There were 50 yeas and 83 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Demmer	Gunther	Lanning	Obermueller	Sterner
Anderson, P.	Dettmer	Hackbarth	Loon	Peppin	Torkelson
Anderson, S.	Doepke	Hamilton	Mack	Rosenthal	Urdahl
Beard	Downey	Holberg	Magnus	Sanders	Westrom
Brod	Drazkowski	Hoppe	McFarlane	Scott	Zellers
Buesgens	Eastlund	Kath	McNamara	Seifert	
Bunn	Emmer	Kelly	Murdock	Severson	
Cornish	Garofalo	Kiffmeyer	Nornes	Shimanski	
Dean	Gottwalt	Kohls	Norton	Smith	

Those who voted in the negative were:

Abeler	Dittrich	Hortman	Liebling	Newton	Simon
Anzelc	Doty	Hosch	Lieder	Olin	Slawik
Atkins	Eken	Howes	Lillie	Otremba	Slocum
Benson	Falk	Huntley	Loeffler	Paymar	Solberg
Bigham	Faust	Jackson	Mahoney	Pelowski	Swails
Bly	Fritz	Johnson	Mariani	Persell	Thao
Brown	Gardner	Juhnke	Marquart	Peterson	Thissen
Brynaert	Greiling	Kahn	Masin	Poppe	Tillberry
Carlson	Hansen	Kalin	Morgan	Reinert	Wagenius
Champion	Hausman	Knuth	Morrow	Rukavina	Ward
Clark	Haws	Koenen	Mullery	Ruud	Welti
Davids	Hayden	Laine	Murphy, E.	Sailer	Winkler
Davnie	Hilstrom	Lenczewski	Murphy, M.	Scalze	Spk. Kelliher
Dill	Hilty	Lesch	Nelson	Sertich	

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

Anderson, S., moved to amend H. F. No. 855, the second engrossment, as follows:

Page 33, after line 23, insert:

"Sec. 48. **REPORT ON JOBS CREATED OR RETAINED.**

The commissioner of employment and economic development shall report to the house of representatives and senate committees with jurisdiction over capital investment on the jobs created or retained as a result of the projects funded in this act. The report must include, but is not limited to, the following information: the number and types of jobs for each project, whether new or retained, where the jobs were located, and pay ranges. The Board of Regents of the University of Minnesota, the Board of Trustees of the Minnesota State Colleges and Universities, and each agency appropriated money in this act shall collect and provide the information at the time and in the manner required by the commissioner of employment and economic development. The commissioner's report must be compiled using information supplied by each of the agencies appropriated money in this act. The report is due February 15, 2010."

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 Anderson, S., amendment and the roll was called. There were 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dettmer	Hayden	Lesch	Norton	Slawik
Anderson, B.	Dill	Hilstrom	Liebling	Obermueller	Slocum
Anderson, P.	Dittrich	Hilty	Lieder	Olin	Smith
Anderson, S.	Doepke	Holberg	Lillie	Otremba	Solberg
Anzelc	Doty	Hoppe	Loeffler	Paymar	Sterner
Atkins	Downey	Hortman	Loon	Pelowski	Swails
Beard	Drazkowski	Hosch	Mack	Peppin	Thao
Benson	Eastlund	Howes	Magnus	Persell	Thissen
Bigham	Eken	Huntley	Mahoney	Peterson	Tillberry
Bly	Emmer	Jackson	Mariani	Poppe	Torkelson
Brod	Falk	Johnson	Marquart	Reinert	Urdahl
Brown	Faust	Juhnke	Masin	Rosenthal	Wagenius
Brynaert	Fritz	Kahn	McFarlane	Rukavina	Ward
Buesgens	Gardner	Kalin	McNamara	Ruud	Welti
Bunn	Garofalo	Kath	Morgan	Sailer	Westrom
Carlson	Gottwalt	Kelly	Morrow	Sanders	Winkler
Champion	Greiling	Kiffmeyer	Mullery	Scalze	Zellers
Clark	Gunther	Knuth	Murdock	Scott	Spk. Kelliher
Cornish	Hackbarth	Koenen	Murphy, E.	Seifert	
Davids	Hamilton	Kohls	Murphy, M.	Sertich	
Davnie	Hansen	Laine	Nelson	Severson	
Dean	Hausman	Lanning	Newton	Shimanski	
Demmer	Haws	Lenczewski	Nornes	Simon	

The motion prevailed and the amendment was adopted.

Davids, Drazkowski, Lanning and Kelly moved to amend H. F. No. 855, the second engrossment, as amended, as follows:

Page 1, line 29, delete "67,905,000" and insert "33,625,000"

Page 2, line 2, delete "13,700,000" and insert "36,565,000"

Page 3, line 8, delete "67,905,000" and insert "33,625,000"

Page 3, delete subdivisions 3 and 4

Page 4, delete subdivisions 5 and 7

Renumber the subdivisions in sequence

Page 8, line 7, delete "13,700,000" and insert "36,565,000"

Page 9, line 13, delete "12,700,000" and insert "35,565,000"

Amend the totals accordingly

A roll call was requested and properly seconded.

The question was taken on the Davids et al amendment and the roll was called. There were 52 yeas and 81 nays as follows:

Those who voted in the affirmative were:

Abeler	Davids	Emmer	Kiffmeyer	Murdock	Shimanski
Anderson, B.	Dean	Garofalo	Kohls	Nornes	Smith
Anderson, P.	Demmer	Gottwalt	Lanning	Olin	Torkelson
Anderson, S.	Dettmer	Gunther	Loon	Otremba	Urdahl
Beard	Doepke	Hackbarth	Mack	Peppin	Welti
Brod	Downey	Hamilton	Magnus	Sanders	Westrom
Brown	Drazkowski	Holberg	Marquart	Scott	Zellers
Buesgens	Eastlund	Hoppe	McFarlane	Seifert	
Cornish	Eken	Kelly	McNamara	Severson	

Those who voted in the negative were:

Anzelc	Falk	Huntley	Lillie	Paymar	Slocum
Atkins	Faust	Jackson	Loeffler	Pelowski	Solberg
Benson	Fritz	Johnson	Mahoney	Persell	Sterner
Bigham	Gardner	Juhnke	Mariani	Peterson	Swails
Bly	Greiling	Kahn	Masin	Poppe	Thao
Brynaert	Hansen	Kalin	Morgan	Reinert	Thissen
Bunn	Hausman	Kath	Morrow	Rosenthal	Tillberry
Carlson	Haws	Knuth	Mullery	Rukavina	Wagenius
Champion	Hayden	Koenen	Murphy, E.	Ruud	Ward
Clark	Hilstrom	Laine	Murphy, M.	Sailer	Winkler
Davnie	Hilty	Lenczewski	Nelson	Scalze	Spk. Kelliher
Dill	Hortman	Lesch	Newton	Sertich	
Dittrich	Hosch	Liebling	Norton	Simon	
Doty	Howes	Lieder	Obermueller	Slawik	

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

Peppin moved to amend H. F. No. 855, the second engrossment, as amended, as follows:

Page 22, after line 29, insert:

"Sec. 27. Minnesota Statutes 2008, section 16B.35, subdivision 1, is amended to read:

Subdivision 1. **Percent of appropriations for art.** An appropriation for the construction or alteration of any state building may contain an amount not to exceed the lesser of \$100,000 or one percent of the total appropriation for the building for the acquisition of works of art, excluding landscaping, which may be an integral part of the building or its grounds, attached to the building or grounds or capable of being displayed in other state buildings. Money used for this purpose is available only for the acquisition of works of art to be exhibited in areas of a building or its grounds accessible, on a regular basis, to members of the public. No more than ten percent of the total amount available each fiscal year under this subdivision may be used for administrative expenses, either by the commissioner of administration or by any other entity to whom the commissioner delegates administrative authority. For the purposes of this section "state building" means a building the construction or alteration of which is paid for wholly or in part by the state."

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 Peppin amendment and the roll was called. There were 59 yeas and 74 nays as follows:

Those who voted in the affirmative were:

Abeler	Demmer	Garofalo	Kath	Murdock	Severson
Anderson, B.	Dettmer	Gottwalt	Kelly	Nornes	Shimanski
Anderson, P.	Dittrich	Gunther	Kiffmeyer	Norton	Smith
Anderson, S.	Doepke	Hackbarth	Kohls	Obermueller	Sterner
Beard	Downey	Hamilton	Lanning	Peppin	Torkelson
Brod	Drazkowski	Holberg	Loon	Peterson	Urdahl
Buesgens	Eastlund	Hoppe	Mack	Sanders	Walti
Cornish	Emmer	Howes	Magnus	Scalze	Westrom
Davids	Faust	Jackson	McFarlane	Scott	Zellers
Dean	Gardner	Kalin	McNamara	Seifert	

Those who voted in the negative were:

Anzelc	Clark	Haws	Knuth	Mariani	Olin
Atkins	Davnie	Hayden	Koenen	Marquart	Otremba
Benson	Dill	Hilstrom	Laine	Masin	Paymar
Bigham	Doty	Hilty	Lenczewski	Morgan	Pelowski
Bly	Eken	Hortman	Lesch	Morrow	Persell
Brown	Falk	Hosch	Liebling	Mullery	Poppe
Brynaert	Fritz	Huntley	Lieder	Murphy, E.	Reinert
Bunn	Greiling	Johnson	Lillie	Murphy, M.	Rosenthal
Carlson	Hansen	Juhnke	Loeffler	Nelson	Rukavina
Champion	Hausman	Kahn	Mahoney	Newton	Ruud

Sailer	Slawik	Swails	Tillberry	Winkler
Sertich	Slocum	Thao	Wagenius	Spk. Kelliher
Simon	Solberg	Thissen	Ward	

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

The Speaker called Pelowski to the chair.

H. F. No. 855, A bill for an act relating to capital improvements; authorizing spending to acquire and better public land and buildings and other improvements of a capital nature with certain conditions; establishing new programs and modifying existing programs; authorizing the sale of state bonds; repealing and modifying previous appropriations; appropriating money; amending Minnesota Statutes 2008, sections 16A.641, subdivisions 4, 7; 16A.66, subdivision 2; 16A.86, subdivision 2, by adding a subdivision; 85.015, by adding a subdivision; 134.45, by adding a subdivision; 135A.046, subdivision 2; 174.03, subdivision 1b; 174.88, subdivision 2; Laws 2005, chapter 20, article 1, section 23, subdivision 16, as amended; Laws 2006, chapter 258, sections 20, subdivision 7; 21, subdivisions 5, 6, as amended; 23, subdivision 3, as amended; Laws 2008, chapter 179, section 3, subdivisions 12, as amended, 21, 25; proposing coding for new law in Minnesota Statutes, chapters 16A; 84; 174; 473; repealing Minnesota Statutes 2008, sections 16A.86, subdivision 3; 116.156; 473.399, subdivision 4; Laws 2008, chapter 179, section 8, subdivision 3.

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 93 yeas and 40 nays as follows:

Those who voted in the affirmative were:

Abeler	Eken	Jackson	Mahoney	Otremba	Solberg
Anzelc	Falk	Johnson	Mariani	Paymar	Sterner
Atkins	Faust	Juhnke	Marquart	Pelowski	Swails
Benson	Fritz	Kahn	Masin	Persell	Thao
Bigham	Gardner	Kalin	McFarlane	Peterson	Thissen
Bly	Greiling	Kath	Morgan	Poppe	Tillberry
Brown	Hansen	Knuth	Morrow	Reinert	Urdahl
Brynaert	Hausman	Koenen	Mullery	Rosenthal	Wagenius
Bunn	Haws	Laine	Murdock	Rukavina	Ward
Carlson	Hayden	Lenczewski	Murphy, E.	Ruud	Welti
Champion	Hilstrom	Lesch	Murphy, M.	Sailer	Westrom
Clark	Hilty	Liebling	Nelson	Scalze	Winkler
Davnie	Hortman	Lieder	Newton	Sertich	Spk. Kelliher
Dill	Hosch	Lillie	Norton	Simon	
Dittrich	Howes	Loeffler	Obermueller	Slawik	
Doty	Huntley	Mack	Olin	Slocum	

Those who voted in the negative were:

Anderson, B.	Brod	Dean	Downey	Garofalo	Hamilton
Anderson, P.	Buesgens	Demmer	Drazkowski	Gottwalt	Holberg
Anderson, S.	Cornish	Dettmer	Eastlund	Gunther	Hoppe
Beard	Davids	Doepke	Emmer	Hackbarth	Kelly

Kiffmeyer	Loon	Nornes	Scott	Shimanski	Zellers
Kohls	Magnus	Peppin	Seifert	Smith	
Lanning	McNamara	Sanders	Severson	Torkelson	

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

Pursuant to rule 1.22, Solberg requested immediate consideration of S. F. No. 1329.

S. F. No. 1329, A bill for an act relating to the Public Facilities Authority; providing for use of federal funds allocated to the state by the American Recovery and Reinvestment Act; providing for clean water and drinking water loans and grants; appropriating money; amending Minnesota Statutes 2008, sections 446A.07, subdivision 7; 446A.081, subdivision 8.

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 120 yeas and 13 nays as follows:

Those who voted in the affirmative were:

Abeler	Demmer	Hilstrom	Lenczewski	Nelson	Sertich
Anderson, P.	Dill	Hilty	Lesch	Newton	Shimanski
Anderson, S.	Dittrich	Hoppe	Liebling	Nornes	Simon
Anzelc	Doepke	Hortman	Lieder	Norton	Slawik
Atkins	Doty	Hosch	Lillie	Obermueller	Slocum
Beard	Downey	Howes	Loeffler	Olin	Smith
Benson	Eken	Huntley	Loon	Otremba	Solberg
Bigham	Falk	Jackson	Magnus	Paymar	Sterner
Bly	Faust	Johnson	Mahoney	Pelowski	Swails
Brod	Fritz	Juhnke	Mariani	Persell	Thao
Brown	Gardner	Kahn	Marquart	Peterson	Thissen
Brynaert	Garofalo	Kalin	Masin	Poppe	Tillberry
Bunn	Gottwalt	Kath	McFarlane	Reinert	Torkelson
Carlson	Greiling	Kelly	McNamara	Rosenthal	Urdahl
Champion	Gunther	Kiffmeyer	Morgan	Rukavina	Wagenius
Clark	Hamilton	Knuth	Morrow	Ruud	Ward
Cornish	Hansen	Koenen	Mullery	Sailer	Welti
Davids	Hausman	Kohls	Murdock	Sanders	Westrom
Davnie	Haws	Laine	Murphy, E.	Scalze	Winkler
Dean	Hayden	Lanning	Murphy, M.	Seifert	Spk. Kelliher

Those who voted in the negative were:

Anderson, B.	Drazkowski	Hackbarth	Peppin	Zellers
Buesgens	Eastlund	Holberg	Scott	
Dettmer	Emmer	Mack	Severson	

The bill was passed and its title agreed to.

Pursuant to rule 1.22, Solberg requested immediate consideration of S. F. No. 1197.

S. F. No. 1197, A bill for an act relating to unemployment insurance; conforming Minnesota law to the requirements necessary to receive federal stimulus funds; appropriating money; amending Minnesota Statutes 2008, sections 268.035, subdivisions 4, as amended, 21a, 23a, by adding a subdivision; 268.07, subdivisions 1, 2; 268.085, subdivision 15; 268.095, subdivisions 1, 6.

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

The question was taken on the passage of the bill and the roll was called. There were 128 yeas and 5 nays as follows:

Those who voted in the affirmative were:

Abeler	Dill	Hilstrom	Lieder	Obermueller	Slawik
Anderson, B.	Dittrich	Hilty	Lillie	Olin	Slocum
Anderson, P.	Doepke	Hortman	Loeffler	Otremba	Smith
Anderson, S.	Doty	Hosch	Loon	Paymar	Solberg
Anzelc	Downey	Howes	Mack	Pelowski	Sterner
Atkins	Drazkowski	Huntley	Magnus	Peppin	Swails
Beard	Eastlund	Jackson	Mahoney	Persell	Thao
Benson	Eken	Johnson	Mariani	Peterson	Thissen
Bigham	Falk	Juhnke	Marquart	Poppe	Tillberry
Bly	Faust	Kahn	Masin	Reinert	Torkelson
Brod	Fritz	Kalin	McFarlane	Rosenthal	Urdahl
Brown	Gardner	Kath	McNamara	Rukavina	Wagenius
Brynaert	Garofalo	Kelly	Morgan	Ruud	Ward
Bunn	Gottwalt	Kiffmeyer	Morrow	Sailer	Welti
Carlson	Greiling	Knuth	Mullery	Sanders	Westrom
Champion	Gunther	Koenen	Murdock	Scalze	Winkler
Clark	Hackbarth	Kohls	Murphy, E.	Scott	Zellers
Cornish	Hamilton	Laine	Murphy, M.	Seifert	Spk. Kelliher
Davids	Hansen	Lanning	Nelson	Sertich	
Davnie	Hausman	Lenczewski	Newton	Severson	
Dean	Haws	Lesch	Nornes	Shimanski	
Dettmer	Hayden	Liebling	Norton	Simon	

Those who voted in the negative were:

Buesgens	Demmer	Emmer	Holberg	Hoppe
----------	--------	-------	---------	-------

The bill was passed and its title agreed to.

CONSENT CALENDAR

Sertich moved that the Consent Calendar be continued. The motion prevailed.

CALENDAR FOR THE DAY

Sertich moved that the Calendar for the Day be continued. The motion prevailed.

MOTIONS AND RESOLUTIONS

Abeler moved that his name be stricken as an author on H. F. No. 424. The motion prevailed.

Kalin moved that the name of Bunn be added as an author on H. F. No. 680. The motion prevailed.

Slocum moved that her name be stricken as an author on H. F. No. 981. The motion prevailed.

Seifert moved that the name of Downey be added as an author on H. F. No. 1437. The motion prevailed.

Hayden moved that the name of Hornstein be added as an author on H. F. No. 1491. The motion prevailed.

Davnie moved that the name of Otremba be added as an author on H. F. No. 1621. The motion prevailed.

Davnie moved that the name of Murphy, E., be added as an author on H. F. No. 1625. The motion prevailed.

Hornstein moved that the name of Kahn be added as an author on H. F. No. 1705. The motion prevailed.

Lesch moved that the name of Kahn be added as an author on H. F. No. 1768. The motion prevailed.

Otremba moved that the name of Haws be added as an author on H. F. No. 1778. The motion prevailed.

Norton moved that the name of Bunn be added as an author on H. F. No. 1785. The motion prevailed.

Slawik moved that the name of Otremba be added as an author on H. F. No. 1811. The motion prevailed.

Gottwalt moved that the names of Murdock and Scott be added as authors on H. F. No. 1865. The motion prevailed.

Seifert moved that the name of Koenen be added as an author on H. F. No. 1946. The motion prevailed.

Marquart moved that the name of Loeffler be added as an author on H. F. No. 1974. The motion prevailed.

Gottwalt moved that the name of Hornstein be added as an author on H. F. No. 2036. The motion prevailed.

Rukavina moved that the names of Hausman and Kahn be added as authors on H. F. No. 2079. The motion prevailed.

Slocum moved that the name of Kahn be added as an author on H. F. No. 2086. The motion prevailed.

Beard moved that the name of Downey be added as an author on H. F. No. 2170. The motion prevailed.

Nornes moved that his name be stricken as an author on H. F. No. 2191. The motion prevailed.

Gunther moved that his name be stricken as an author on H. F. No. 2191. The motion prevailed.

Emmer moved that his name be stricken as an author on H. F. No. 2191. The motion prevailed.

Solberg moved that his name be stricken as an author on H. F. No. 2191. The motion prevailed.

Abeler moved that the name of Kahn be added as an author on H. F. No. 2220. The motion prevailed.

McNamara moved that the name of Dittrich be added as an author on H. F. No. 2221. The motion prevailed.

Carlson moved that the name of Kahn be added as an author on H. F. No. 2232. The motion prevailed.

Scalze moved that the names of Slocum and Kahn be added as authors on H. F. No. 2249. The motion prevailed.

Laine moved that the name of Slocum be added as an author on H. F. No. 2256. The motion prevailed.

Winkler moved that the name of Bunn be added as an author on H. F. No. 2257. The motion prevailed.

Thissen moved that the name of Slocum be added as an author on H. F. No. 2258. The motion prevailed.

Loeffler moved that the name of Kahn be added as an author on H. F. No. 2262. The motion prevailed.

Downey moved that the name of Simon be added as an author on H. F. No. 2270. The motion prevailed.

Hosch moved that H. F. No. 1708, now on the General Register, be re-referred to the Committee on Finance. The motion prevailed.

Olin moved that H. F. No. 1916 be recalled from the Committee on Public Safety Policy and Oversight and be re-referred to the Committee on State and Local Government Operations Reform, Technology and Elections. The motion prevailed.

Davnie moved that H. F. No. 2029, now on the General Register, be re-referred to the Committee on Finance. The motion prevailed.

Davnie moved that H. F. No. 2279 be recalled from the Committee on Commerce and Labor and be re-referred to the Housing Finance and Policy and Public Health Finance Division. The motion prevailed.

FISCAL CALENDAR ANNOUNCEMENT

Pursuant to rule 1.22, Lenczewski announced her intention to place S. F. No. 811 on the Fiscal Calendar for Tuesday, April 7, 2009.

ADJOURNMENT

Sertich moved that when the House adjourns today it adjourn until 12:30 p.m., Tuesday, April 7, 2009. The motion prevailed.

Sertich moved that the House adjourn. The motion prevailed, and Speaker pro tempore Pelowski declared the House stands adjourned until 12:30 p.m., Tuesday, April 7, 2009.

ALBIN A. MATHIOWETZ, Chief Clerk, House of Representatives