

## FIFTY-FIRST DAY

St. Paul, Minnesota, Monday, May 11, 2009

The Senate met at 12:00 noon and was called to order by the President.

## CALL OF THE SENATE

Senator Pogemiller imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

Prayer was offered by the Chaplain, Rev. Jim Holthus.

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

The roll was called, and the following Senators answered to their names:

Anderson	Erickson Ropes	Koering	Olson, M.	Sheran
Bakk	Fischbach	Kubly	Ortman	Sieben
Berglin	Fobbe	Langseth	Pappas	Skoe
Betzold	Foley	Latz	Pariseau	Skogen
Bonoff	Frederickson	Limmer	Pogemiller	Sparks
Carlson	Gerlach	Lourey	Prettner Solon	Stumpf
Chaudhary	Gimse	Lynch	Rest	Tomassoni
Clark	Hann	Marty	Robling	Torres Ray
Cohen	Higgins	Metzen	Rosen	Vandever
Dahle	Ingebrigtsen	Michel	Rummel	Vickerman
Day	Johnson	Moua	Saltzman	Wiger
Dibble	Jungbauer	Murphy	Saxhaug	
Dille	Kelash	Olseen	Scheid	
Doll	Koch	Olson, G.	Senjem	

The President declared a quorum present.

The reading of the Journal was dispensed with and the Journal, as printed and corrected, was approved.

## EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received.

May 7, 2009

The Honorable James P. Metzen  
President of the Senate

Dear President Metzen:

Please be advised that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. Nos. 247, 1462, 1486, 1754, 1489, 245, 412, 640, 275, 729 and 615.

Sincerely,  
Tim Pawlenty, Governor

May 7, 2009

The Honorable Margaret Anderson Kelliher  
Speaker of the House of Representatives

The Honorable James P. Metzen  
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 2009 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 2009	Date Filed 2009
	1309	36	3:32 p.m. May 7	May 7
	*2123	37	10:05 p.m. May 7	May 7
	1242	38	2:15 p.m. May 7	May 7
247		40	4:39 p.m. May 7	May 7
1462		41	3:36 p.m. May 7	May 7
1486		42	5:13 p.m. May 7	May 7
1754		43	4:24 p.m. May 7	May 7
1489		44	3:37 p.m. May 7	May 7
245		45	3:42 p.m. May 7	May 7
412		46	4:25 p.m. May 7	May 7
640		48	4:28 p.m. May 7	May 7
275		49	3:43 p.m. May 7	May 7
729		50	3:44 p.m. May 7	May 7
615		51	3:45 p.m. May 7	May 7

\* Chapter with line item veto

Sincerely,  
Mark Ritchie  
Secretary of State

May 9, 2009

The Honorable James P. Metzen  
President of the Senate

51ST DAY]

MONDAY, MAY 11, 2009

4477

Dear President Metzen:

Please be advised that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. Nos. 166, 1611, 298, 1172 and 1467.

Sincerely,  
Tim Pawlenty, Governor

May 9, 2009

The Honorable Margaret Anderson Kelliher  
Speaker of the House of Representatives

The Honorable James P. Metzen  
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 2009 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 2009	Date Filed 2009
166		52	4:06 p.m. May 9	May 9
1611		53	4:07 p.m. May 9	May 9
298		54	4:16 p.m. May 9	May 9
1172		55	4:11 p.m. May 9	May 9
1467		56	4:13 p.m. May 9	May 9

Sincerely,  
Mark Ritchie  
Secretary of State

### MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 1505 and 1231.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 8, 2009

### FIRST READING OF HOUSE BILLS

The following bills were read the first time.

**H.F. No. 1505:** A bill for an act relating to public safety; modifying publication date of data on trafficking to every two years; providing for first- and second-degree sex trafficking; increasing criminal penalties for certain sex trafficking offenses; modifying provisions on solicitation of prostitution; adding sex trafficking to the definition of crime of violence; amending Minnesota Statutes 2008, sections 299A.785, subdivision 2; 609.281, subdivision 5; 609.321, subdivisions 7, 7a, by adding subdivisions; 609.322; 609.324, subdivisions 2, 3; 611A.036, subdivision 7; 624.712, subdivision 5.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1514, now on General Orders.

**H.F. No. 1231:** A bill for an act relating to state government; appropriating money from constitutionally dedicated funds and providing for policy and governance of outdoor heritage, clean water, parks and trails, and arts and cultural heritage purposes; establishing and modifying grants and funding programs; providing for advisory groups; providing appointments; requiring reports; requiring rulemaking; amending Minnesota Statutes 2008, sections 3.303, by adding a subdivision; 3.971, by adding a subdivision; 17.117, subdivision 11a; 18G.11, by adding a subdivision; 84.02, by adding subdivisions; 85.53; 97A.056, subdivisions 2, 3, 6, 7, by adding subdivisions; 103F.515, subdivisions 2, 4; 114D.50; 116G.15; 116P.05, subdivision 2; 129D.17; 477A.12, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 3; 84; 84C; 85; 116; 129D; 138; 477A.

Senator Pogemiller moved that H.F. No. 1231 be laid on the table. The motion prevailed.

### REPORTS OF COMMITTEES

Senator Pogemiller moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

**Senator Pogemiller, from the Committee on Rules and Administration, to which was referred**

**H.F. No. 348** for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
348	297				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 348 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 348, the first engrossment; and insert the language after the enacting clause of S.F. No. 297, the first engrossment; further, delete the title of H.F. No. 348, the first engrossment; and insert the title of S.F. No. 297, the first engrossment.

And when so amended H.F. No. 348 will be identical to S.F. No. 297, and further recommends that H.F. No. 348 be given its second reading and substituted for S.F. No. 297, and that the Senate

File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

**Senator Pogemiller, from the Committee on Rules and Administration, to which was referred**

**H.F. No. 818** for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
818	758				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 818 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 818, the fifth engrossment; and insert the language after the enacting clause of S.F. No. 758, the fourth engrossment; further, delete the title of H.F. No. 818, the fifth engrossment; and insert the title of S.F. No. 758, the fourth engrossment.

And when so amended H.F. No. 818 will be identical to S.F. No. 758, and further recommends that H.F. No. 818 be given its second reading and substituted for S.F. No. 758, and that the Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

**Senator Pogemiller, from the Committee on Rules and Administration, to which was referred**

**H.F. No. 804** for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
804	951				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 804 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 804, the second engrossment; and insert the language after the enacting clause of S.F. No. 951, the second engrossment; further, delete the title of H.F. No. 804, the second engrossment; and insert the title of S.F. No. 951, the second engrossment.

And when so amended H.F. No. 804 will be identical to S.F. No. 951, and further recommends

that H.F. No. 804 be given its second reading and substituted for S.F. No. 951, and that the Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

### SECOND READING OF HOUSE BILLS

H.F. Nos. 348, 818 and 804 were read the second time.

### INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bills were read the first time.

#### **Senator Erickson Ropes introduced—**

**S.F. No. 2138:** A bill for an act relating to capital investment; authorizing the sale of state bonds; appropriating money to Independent School District No. 227, Chatfield, for the Potter Center for the Arts in the city of Chatfield.

Referred to the Committee on Finance.

#### **Senators Marty, Torres Ray and Lourey introduced—**

**S.F. No. 2139:** A bill for an act relating to health; requiring coverage for prosthetic devices; proposing coding for new law in Minnesota Statutes, chapter 62A.

Referred to the Committee on Commerce and Consumer Protection.

#### **Senator Koch introduced—**

**S.F. No. 2140:** A bill for an act relating to commerce; exempting from federal regulation under the commerce clause of the Constitution of the United States a firearm, a firearm accessory, or ammunition manufactured and retained in Minnesota; proposing coding for new law in Minnesota Statutes, chapter 624.

Referred to the Committee on Judiciary.

### MOTIONS AND RESOLUTIONS

Remaining on the Order of Business of Motions and Resolutions, Senator Pogemiller moved that the Senate take up the Calendar. The motion prevailed.

### CALL OF THE SENATE

Senator Pogemiller imposed a call of the Senate for the balance of the proceedings on the

Calendar. The Sergeant at Arms was instructed to bring in the absent members.

### CALENDAR

**S.F. No. 1890:** A bill for an act relating to health; changing provisions for health information technology and infrastructure; establishing an e-health advisory committee; changing electronic health records provisions; changing electronic health record system and revolving account and loan program; modifying electronic prescribing provisions; amending Minnesota Statutes 2008, sections 62J.495; 62J.496; 62J.497, subdivisions 1, 2.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 61 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Fischbach	Koering	Ortman	Sieben
Bakk	Fobbe	Kubly	Pappas	Skoe
Berglin	Foley	Langseth	Pogemiller	Skogen
Betzold	Frederickson	Limmer	Prettner Solon	Sparks
Bonoff	Gerlach	Lourey	Rest	Stumpf
Carlson	Gimse	Lynch	Robling	Tomassoni
Chaudhary	Hann	Marty	Rosen	Torres Ray
Clark	Higgins	Metzen	Rummel	Vandever
Dahle	Ingebrigtsen	Michel	Saltzman	Wiger
Day	Johnson	Moua	Saxhaug	
Dibble	Jungbauer	Murphy	Scheid	
Doll	Kelash	Olseen	Senjem	
Erickson Ropes	Koch	Olson, M.	Sheran	

So the bill passed and its title was agreed to.

**S.F. No. 727:** A bill for an act relating to human services; establishing a self-advocacy program for persons with developmental disabilities; transferring money appropriated to the commissioner of administration; amending Minnesota Statutes 2008, section 256B.092, by adding a subdivision.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 67 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Erickson Ropes	Koering	Olson, M.	Sheran
Bakk	Fischbach	Kubly	Ortman	Sieben
Berglin	Fobbe	Langseth	Pappas	Skoe
Betzold	Foley	Latz	Pariseau	Skogen
Bonoff	Frederickson	Limmer	Pogemiller	Sparks
Carlson	Gerlach	Lourey	Prettner Solon	Stumpf
Chaudhary	Gimse	Lynch	Rest	Tomassoni
Clark	Hann	Marty	Robling	Torres Ray
Cohen	Higgins	Metzen	Rosen	Vandever
Dahle	Ingebrigtsen	Michel	Rummel	Vickerman
Day	Johnson	Moua	Saltzman	Wiger
Dibble	Jungbauer	Murphy	Saxhaug	
Dille	Kelash	Olseen	Scheid	
Doll	Koch	Olson, G.	Senjem	

So the bill passed and its title was agreed to.

**S.F. No. 915:** A bill for an act relating to insurance; requiring school districts to obtain employee health coverage through the public employees insurance program; appropriating money; amending Minnesota Statutes 2008, sections 43A.316, subdivisions 9, 10, by adding subdivisions; 62E.02, subdivision 23; 62E.10, subdivision 1; 62E.11, subdivision 5; 297I.05, subdivision 5; 297I.15, subdivision 3.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 45 and nays 22, as follows:

Those who voted in the affirmative were:

Anderson	Dahle	Kelash	Murphy	Scheid
Bakk	Dibble	Koering	Olseen	Senjem
Berglin	Dille	Kubly	Olson, M.	Sieben
Betzold	Doll	Langseth	Pappas	Skogen
Bonoff	Erickson Ropes	Lourey	Pogemiller	Sparks
Carlson	Foley	Lynch	Prettner Solon	Stumpf
Chaudhary	Gimse	Marty	Rest	Tomassoni
Clark	Higgins	Metzen	Rosen	Torres Ray
Cohen	Jungbauer	Moua	Saxhaug	Vickerman

Those who voted in the negative were:

Day	Hann	Limmer	Robling	Vandev eer
Fischbach	Ingebrigtsen	Michel	Rummel	Wiger
Fobbe	Johnson	Olson, G.	Saltzman	
Frederickson	Koch	Ortman	Sheran	
Gerlach	Latz	Pariseau	Skoe	

So the bill passed and its title was agreed to.

**S.F. No. 1331:** A bill for an act relating to elections; moving the state primary from September to June and making conforming changes; updating certain ballot and voting system requirements; changing certain election administration provisions; authorizing early voting; expanding requirements and authorizations for postsecondary institutions to report resident student information to the secretary of state for voter registration purposes; changing certain absentee ballot requirements and provisions; requiring a special election for certain vacancies in nomination; changing the special election requirements for vacancies in Congressional offices; requiring an affidavit of candidacy to state the candidate's residence address and telephone number; changing municipal precinct and ward boundary requirements for certain cities; imposing additional requirements on polling place challengers; changing certain caucus and campaign provisions; amending Minnesota Statutes 2008, sections 10A.31, subdivision 6; 10A.321; 10A.322, subdivision 1; 10A.323; 103C.305, subdivisions 1, 3; 135A.17, subdivision 2; 201.016, subdivisions 1a, 2; 201.022, subdivision 1; 201.056; 201.061, subdivisions 1, 3; 201.071, subdivision 1; 201.091, by adding a subdivision; 201.11; 201.12; 201.13; 202A.14, subdivision 3; 203B.001; 203B.01, by adding a subdivision; 203B.02, subdivision 3; 203B.03, subdivision 1; 203B.04, subdivisions 1, 6; 203B.05; 203B.06, subdivisions 3, 5; 203B.07, subdivisions 2, 3; 203B.08, subdivisions 2, 3, by adding a subdivision; 203B.081; 203B.085; 203B.11, subdivision 1; 203B.12; 203B.125; 203B.16, subdivision 2; 203B.17, subdivision 1; 203B.19; 203B.21, subdivision 2; 203B.22; 203B.225, subdivision 1; 203B.227; 203B.23, subdivision 2; 203B.24, subdivision 1; 203B.26;



204B.04, subdivisions 2, 3; 204B.06, by adding a subdivision; 204B.07, subdivision 1; 204B.09, subdivisions 1, 3; 204B.11, subdivision 2; 204B.13, subdivisions 1, 2, by adding subdivisions; 204B.135, subdivisions 1, 3, 4; 204B.14, subdivisions 2, 3, 4, by adding a subdivision; 204B.16, subdivision 1; 204B.18; 204B.21, subdivision 1; 204B.22, subdivisions 1, 2; 204B.24; 204B.27, subdivisions 2, 3; 204B.28, subdivision 2; 204B.33; 204B.35, subdivision 4; 204B.44; 204B.45, subdivision 2; 204B.46; 204C.02; 204C.04, subdivision 1; 204C.06, subdivision 1; 204C.07, subdivisions 3a, 4; 204C.08; 204C.10; 204C.12, subdivision 2; 204C.13, subdivisions 2, 3, 5, 6; 204C.17; 204C.19, subdivision 2; 204C.20, subdivisions 1, 2; 204C.21; 204C.22, subdivisions 3, 4, 6, 7, 10, 13; 204C.24, subdivision 1; 204C.25; 204C.26; 204C.27; 204C.28, subdivision 3; 204C.30, by adding subdivisions; 204C.33, subdivisions 1, 3; 204C.35, subdivisions 1, 2, by adding a subdivision; 204C.36, subdivisions 1, 3, 4; 204C.37; 204D.03, subdivisions 1, 3; 204D.04, subdivision 2; 204D.05, subdivision 3; 204D.07; 204D.08; 204D.09, subdivision 2; 204D.10, subdivisions 1, 3; 204D.11, subdivision 1; 204D.12; 204D.13; 204D.16; 204D.165; 204D.17; 204D.19; 204D.20, subdivision 1; 204D.25, subdivision 1; 205.065, subdivisions 1, 2; 205.07, by adding a subdivision; 205.075, subdivision 1; 205.13, subdivisions 1, 1a, 2; 205.16, subdivisions 2, 3, 4; 205.17, subdivisions 1, 3, 4, 5; 205.185, subdivision 3, by adding a subdivision; 205.84, subdivisions 1, 2; 205A.03, subdivisions 1, 2; 205A.05, subdivisions 1, 2; 205A.06, subdivision 1a; 205A.07, subdivisions 2, 3; 205A.08, subdivisions 1, 3, 4; 205A.10, subdivisions 2, 3, by adding a subdivision; 205A.11, subdivision 3; 206.56, subdivision 3; 206.57, subdivision 6; 206.82, subdivision 2; 206.83; 206.84, subdivision 3; 206.86, subdivision 6; 206.89, subdivisions 2, 3; 206.90, subdivisions 9, 10; 208.03; 208.04; 211B.045; 211B.11, by adding a subdivision; 211B.20, subdivisions 1, 2; 412.02, subdivision 2a; 414.02, subdivision 4; 414.031, subdivision 6; 414.0325, subdivisions 1, 4; 414.033, subdivision 7; 447.32, subdivision 4; Laws 2005, chapter 162, section 34, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 202A; 203B; 204B; 204C; 204D; 205; 205A; repealing Minnesota Statutes 2008, sections 3.22; 201.096; 203B.04, subdivision 5; 203B.10; 203B.11, subdivision 2; 203B.13, subdivisions 1, 2, 3, 4; 203B.25; 204B.12, subdivision 2a; 204B.13, subdivisions 4, 5, 6; 204B.22, subdivision 3; 204B.36; 204B.37; 204B.38; 204B.39; 204B.41; 204B.42; 204C.07, subdivision 3; 204C.13, subdivision 4; 204C.20, subdivision 3; 204C.23; 204D.05, subdivisions 1, 2; 204D.10, subdivision 2; 204D.11, subdivisions 2, 3, 4, 5, 6; 204D.14, subdivisions 1, 3; 204D.15, subdivisions 1, 3; 204D.169; 204D.28; 205.17, subdivision 2; 206.56, subdivision 5; 206.57, subdivision 7; 206.61, subdivisions 1, 3, 4, 5; 206.62; 206.805, subdivision 2; 206.84, subdivisions 1, 6, 7; 206.86, subdivisions 1, 2, 3, 4, 5; 206.90, subdivisions 3, 5, 6, 7, 8; 206.91; Minnesota Rules, part 8230.4365, subpart 5.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 40 and nays 27, as follows:

Those who voted in the affirmative were:

Anderson	Dahle	Kubly	Murphy	Saltzman
Bakk	Dibble	Langseth	Olseen	Saxhaug
Betzold	Doll	Latz	Olson, M.	Scheid
Bonoff	Erickson Ropes	Lourey	Pappas	Sieben
Carlson	Fobbe	Lynch	Pogemiller	Skogen
Chaudhary	Foley	Marty	Prettner Solon	Torres Ray
Clark	Higgins	Metzen	Rest	Vickerman
Cohen	Kelash	Moua	Rummel	Wiger

Those who voted in the negative were:

Berglin	Gimse	Koering	Robling	Stumpf
Day	Hann	Limmer	Rosen	Tomassoni
Dille	Ingebrigtsen	Michel	Senjem	Vandever
Fischbach	Johnson	Olson, G.	Sheran	
Frederickson	Jungbauer	Ortman	Skoe	
Gerlach	Koch	Pariseau	Sparks	

So the bill passed and its title was agreed to.

**S.F. No. 80:** A bill for an act relating to elections; campaign finance; removing certain unconstitutional provisions governing independent expenditures in political campaigns; changing certain campaign expenditure and contribution limits and certain reporting requirements; authorizing electronic filing of certain items with the Campaign Finance and Public Disclosure Board; providing contribution limits for judicial candidates; increasing contribution limits for candidates for secretary of state, state auditor and the legislature; making certain reports filed with the Campaign Finance and Public Disclosure Board nonpublic data until certain conditions have been met; requiring the public subsidy for an eligible candidate be withheld until a required report has been filed; amending Minnesota Statutes 2008, sections 10A.01, subdivisions 9, 11, 18, 26; 10A.04, subdivision 5; 10A.071, subdivision 3; 10A.08; 10A.09, subdivision 7; 10A.14, subdivisions 2, 4, by adding a subdivision; 10A.20, subdivisions 1, 12, 13, by adding subdivisions; 10A.27, subdivision 1; 10A.31, subdivision 6, by adding a subdivision; 10A.322, subdivision 1; 10A.323; 10A.35; 13.607, by adding a subdivision; 211A.02, subdivision 2; 211A.05, subdivision 2; 211B.12; repealing Minnesota Statutes 2008, section 10A.20, subdivision 6b.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 65 and nays 2, as follows:

Those who voted in the affirmative were:

Anderson	Doll	Kelash	Murphy	Saltzman
Bakk	Erickson Ropes	Koch	Olseen	Saxhaug
Berglin	Fischbach	Koering	Olson, G.	Scheid
Betzold	Fobbe	Kubly	Olson, M.	Sheran
Bonoff	Foley	Langseth	Ortman	Sieben
Carlson	Frederickson	Latz	Pappas	Skoe
Chaudhary	Gerlach	Limmer	Pariseau	Skogen
Clark	Gimse	Lourey	Pogemiller	Sparks
Cohen	Hann	Lynch	Prettner Solon	Stumpf
Dahle	Higgins	Marty	Rest	Tomassoni
Day	Ingebrigtsen	Metzen	Robling	Torres Ray
Dibble	Johnson	Michel	Rosen	Vickerman
Dille	Jungbauer	Moua	Rummel	Wiger

Those who voted in the negative were:

Senjem	Vandever
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So the bill passed and its title was agreed to.

**S.F. No. 1927:** A bill for an act relating to state government; appropriating money for environment and natural resources; modifying administration of the Lessard Outdoor Heritage Council; amending Minnesota Statutes 2008, section 97A.056, subdivisions 2, 7.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 67 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Erickson Ropes	Koering	Olson, M.	Sheran
Bakk	Fischbach	Kubly	Ortman	Sieben
Berglin	Fobbe	Langseth	Pappas	Skoe
Betzold	Foley	Latz	Pariseau	Skogen
Bonoff	Frederickson	Limmer	Pogemiller	Sparks
Carlson	Gerlach	Lourey	Prettner Solon	Stumpf
Chaudhary	Gimse	Lynch	Rest	Tomassoni
Clark	Hann	Marty	Robling	Torres Ray
Cohen	Higgins	Metzen	Rosen	Vandever
Dahle	Ingebrigtsen	Michel	Rummel	Vickerman
Day	Johnson	Moua	Saltzman	Wiger
Dibble	Jungbauer	Murphy	Saxhaug	
Dille	Kelash	Olseen	Scheid	
Doll	Koch	Olson, G.	Senjem	

So the bill passed and its title was agreed to.

**H.F. No. 928:** A bill for an act relating to transportation; modifying various provisions related to transportation or public safety; prohibiting certain acts; amending Minnesota Statutes 2008, sections 161.14, subdivision 62, as added, by adding subdivisions; 168.33, subdivision 2; 169.011, by adding a subdivision; 169.045; 169.15; 169.306; 169.71, subdivision 1; 171.12, subdivision 6; 174.86, subdivision 5; 221.012, subdivision 38, by adding a subdivision; 221.0252, by adding a subdivision; 473.167, subdivision 2a; Laws 2008, chapter 287, article 1, section 122; proposing coding for new law in Minnesota Statutes, chapters 160; 171; 174; 299C.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 57 and nays 10, as follows:

Those who voted in the affirmative were:

Anderson	Dille	Kubly	Olson, M.	Sieben
Bakk	Doll	Langseth	Pappas	Skoe
Berglin	Erickson Ropes	Latz	Pariseau	Skogen
Betzold	Fischbach	Lourey	Pogemiller	Sparks
Bonoff	Fobbe	Lynch	Prettner Solon	Stumpf
Carlson	Foley	Marty	Rest	Tomassoni
Chaudhary	Frederickson	Metzen	Rummel	Torres Ray
Clark	Gimse	Michel	Saltzman	Vickerman
Cohen	Higgins	Moua	Saxhaug	Wiger
Dahle	Johnson	Murphy	Scheid	
Day	Jungbauer	Olseen	Senjem	
Dibble	Kelash	Olson, G.	Sheran	

Those who voted in the negative were:

Gerlach	Ingebrigtsen	Koering	Ortman	Rosen
Hann	Koch	Limmer	Robling	Vandever

So the bill passed and its title was agreed to.

**S.F. No. 2043:** A bill for an act relating to natural resources; appropriating money from the parks and trails fund; providing for the allocation of certain funding for metropolitan area parks and trails;

creating a regional park and trail grant program; providing funding for a statewide 25-year park and trail framework; amending Minnesota Statutes 2008, section 85.53; proposing coding for new law in Minnesota Statutes, chapter 85.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 67 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Erickson Ropes	Koering	Olson, M.	Sheran
Bakk	Fischbach	Kubly	Ortman	Sieben
Berglin	Fobbe	Langseth	Pappas	Skoe
Betzold	Foley	Latz	Pariseau	Skogen
Bonoff	Frederickson	Limmer	Pogemiller	Sparks
Carlson	Gerlach	Lourey	Prettner Solon	Stumpf
Chaudhary	Gimse	Lynch	Rest	Tomassoni
Clark	Hann	Marty	Robling	Torres Ray
Cohen	Higgins	Metzen	Rosen	Vandever
Dahle	Ingebrigtsen	Michel	Rummel	Vickerman
Day	Johnson	Moua	Saltzman	Wiger
Dibble	Jungbauer	Murphy	Saxhaug	
Dille	Kelash	Olseen	Scheid	
Doll	Koch	Olson, G.	Senjem	

So the bill passed and its title was agreed to.

**S.F. No. 185:** A bill for an act relating to state government; extending authority for activities relating to understanding and appreciating ethnic and cultural diversity in Minnesota; extending life of steering task force for restoring Victory Memorial Drive Historic District; amending Minnesota Statutes 2008, section 3.303, subdivision 8; Laws 2006, chapter 218, section 6.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 63 and nays 4, as follows:

Those who voted in the affirmative were:

Anderson	Doll	Koering	Olson, M.	Senjem
Bakk	Erickson Ropes	Kubly	Ortman	Sheran
Berglin	Fischbach	Langseth	Pappas	Sieben
Betzold	Fobbe	Latz	Pariseau	Skoe
Bonoff	Foley	Lourey	Pogemiller	Skogen
Carlson	Frederickson	Lynch	Prettner Solon	Sparks
Chaudhary	Gerlach	Marty	Rest	Stumpf
Clark	Gimse	Metzen	Robling	Tomassoni
Cohen	Hann	Michel	Rosen	Torres Ray
Dahle	Higgins	Moua	Rummel	Vickerman
Day	Johnson	Murphy	Saltzman	Wiger
Dibble	Jungbauer	Olseen	Saxhaug	
Dille	Kelash	Olson, G.	Scheid	

Those who voted in the negative were:

Ingebrigtsen	Koch	Limmer	Vandever
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So the bill passed and its title was agreed to.

**S.F. No. 2060:** A bill for an act relating to arts and culture; appropriating money from the arts and cultural heritage fund; establishing a Dakota and Ojibwe language revitalization and preservation volunteer working group; proposing coding for new law in Minnesota Statutes, chapter 129D; proposing coding for new law as Minnesota Statutes, chapter 129E; repealing Minnesota Statutes 2008, section 129D.17.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 65 and nays 2, as follows:

Those who voted in the affirmative were:

Anderson	Doll	Koering	Olson, G.	Scheid
Bakk	Erickson Ropes	Kubly	Olson, M.	Senjem
Berglin	Fischbach	Langseth	Ortman	Sheran
Betzold	Fobbe	Latz	Pappas	Sieben
Bonoff	Foley	Limmer	Pariseau	Skoe
Carlson	Frederickson	Lourey	Pogemiller	Skogen
Chaudhary	Gerlach	Lynch	Prettner Solon	Sparks
Clark	Gimse	Marty	Rest	Stumpf
Cohen	Higgins	Metzen	Robling	Tomassoni
Dahle	Ingebrigtsen	Michel	Rosen	Torres Ray
Day	Johnson	Moua	Rummel	Vandever
Dibble	Kelash	Murphy	Saltzman	Vickerman
Dille	Koch	Olseen	Saxhaug	Wiger

Those who voted in the negative were:

Hann	Jungbauer
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So the bill passed and its title was agreed to.

**S.F. No. 2078:** A bill for an act relating to economic development; providing for stimulation of the construction industry; streamlining certain construction projects; creating a construction loan guarantee program; authorizing green energy revenue bonds; permitting local assessments for energy improvements; providing for home purchase loans; providing tax abatement for newly constructed residential structures in flood-damaged areas; providing a low-income housing tax credit; appropriating money; amending Minnesota Statutes 2008, sections 16C.16, by adding a subdivision; 429.011, by adding subdivisions; 429.021, subdivision 1; 429.031, subdivision 3; 462A.21, by adding a subdivision; 469.153, subdivision 2; 469.176, subdivision 2, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 116J; 290; 462A; 469.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 56 and nays 11, as follows:

Those who voted in the affirmative were:

Anderson	Clark	Fobbe	Kelash	Lynch
Bakk	Cohen	Foley	Koch	Metzen
Berglin	Dahle	Frederickson	Koering	Michel
Betzold	Day	Gerlach	Kubly	Moua
Bonoff	Dibble	Gimse	Langseth	Olseen
Carlson	Doll	Higgins	Latz	Olson, G.
Chaudhary	Fischbach	Johnson	Lourey	Olson, M.

Ortman	Rest	Senjem	Sparks	Wiger
Pappas	Rosen	Sheran	Stumpf	
Pariseau	Saltzman	Sieben	Tomassoni	
Pogemiller	Saxhaug	Skoe	Torres Ray	
Prettner Solon	Scheid	Skogen	Vickerman	

Those who voted in the negative were:

Dille	Ingebrigtsen	Marty	Rummel
Erickson Ropes	Jungbauer	Murphy	Vandever
Hann	Limmer	Robling	

So the bill passed and its title was agreed to.

**S.F. No. 722:** A bill for an act relating to public safety; requiring that information on persons civilly committed, found not guilty by reason of mental illness, or incompetent to stand trial be transmitted to the federal National Instant Criminal Background Check System; authorizing certain persons prohibited under state law from possessing a firearm to petition a court for restoration of this right; amending Minnesota Statutes 2008, section 624.713, subdivision 1, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 253B.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 67 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Erickson Ropes	Koering	Olson, M.	Sheran
Bakk	Fischbach	Kubly	Ortman	Sieben
Berglin	Fobbe	Langseth	Pappas	Skoe
Betzold	Foley	Latz	Pariseau	Skogen
Bonoff	Frederickson	Limmer	Pogemiller	Sparks
Carlson	Gerlach	Lourey	Prettner Solon	Stumpf
Chaudhary	Gimse	Lynch	Rest	Tomassoni
Clark	Hann	Marty	Robling	Torres Ray
Cohen	Higgins	Metzen	Rosen	Vandever
Dahle	Ingebrigtsen	Michel	Rummel	Vickerman
Day	Johnson	Moua	Saltzman	Wiger
Dibble	Jungbauer	Murphy	Saxhaug	
Dille	Kelash	Olseen	Scheid	
Doll	Koch	Olson, G.	Senjem	

So the bill passed and its title was agreed to.

**H.F. No. 111:** A bill for an act relating to the State Board of Investment; requiring divestment from certain investments relating to Iran; requiring a report; proposing coding for new law in Minnesota Statutes, chapter 11A.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 50 and nays 16, as follows:

Those who voted in the affirmative were:

Anderson	Chaudhary	Dahle	Erickson Ropes	Frederickson
Bakk	Clark	Dibble	Fischbach	Gerlach
Bonoff	Cohen	Doll	Fobbe	Gimse

Hann	Limmer	Olseen	Rest	Sieben
Higgins	Lourey	Olson, G.	Robling	Sparks
Johnson	Lynch	Ortman	Rosen	Stumpf
Kelash	Metzen	Pappas	Saltzman	Tomassoni
Koch	Michel	Pariseau	Saxhaug	Torres Ray
Koering	Moua	Pogemiller	Scheid	Vickerman
Latz	Murphy	Prettner Solon	Sheran	Wiger

Those who voted in the negative were:

Berglin	Dille	Kubly	Senjem
Betzold	Foley	Langseth	Skoe
Carlson	Ingebrigtsen	Marty	Skogen
Day	Jungbauer	Olson, M.	Vandevveer

So the bill passed and its title was agreed to.

**S.F. No. 848:** A bill for an act relating to elections; changing certain requirements for elections; amending Minnesota Statutes 2008, sections 204B.19, subdivision 2; 204B.21, subdivisions 1, 2; 204B.45, subdivision 1; 204B.46; 205.075, subdivision 1, by adding a subdivision; 367.03, subdivision 4, by adding a subdivision.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 62 and nays 3, as follows:

Those who voted in the affirmative were:

Anderson	Doll	Langseth	Ortman	Sheran
Bakk	Erickson Ropes	Latz	Pappas	Sieben
Berglin	Fischbach	Limmer	Pariseau	Skoe
Betzold	Fobbe	Lourey	Pogemiller	Skogen
Bonoff	Foley	Lynch	Prettner Solon	Sparks
Carlson	Frederickson	Marty	Rest	Stumpf
Chaudhary	Gimse	Metzen	Robling	Tomassoni
Clark	Higgins	Michel	Rosen	Torres Ray
Cohen	Ingebrigtsen	Moua	Rummel	Vickerman
Dahle	Johnson	Murphy	Saltzman	Wiger
Day	Kelash	Olseen	Saxhaug	
Dibble	Koering	Olson, G.	Scheid	
Dille	Kubly	Olson, M.	Senjem	

Those who voted in the negative were:

Gerlach	Jungbauer	Koch
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So the bill passed and its title was agreed to.

**S.F. No. 1155:** A bill for an act relating to human services; changing capacity requirements for certain residential programs; requiring the commissioner to request federal waivers; amending Minnesota Statutes 2008, sections 245A.11, subdivision 2a; 256B.092, by adding a subdivision; 256B.49, subdivision 17; repealing Minnesota Statutes 2008, section 256B.092, subdivision 5a.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 66 and nays 1, as follows:

Those who voted in the affirmative were:

Anderson	Erickson Ropes	Kubly	Ortman	Sieben
Bakk	Fischbach	Langseth	Pappas	Skoe
Berglin	Fobbe	Latz	Pariseau	Skogen
Betzold	Foley	Limmer	Pogemiller	Sparks
Bonoff	Frederickson	Lourey	Prettner Solon	Stumpf
Carlson	Gerlach	Lynch	Rest	Tomassoni
Chaudhary	Gimse	Marty	Robling	Torres Ray
Clark	Hann	Metzen	Rosen	Vandever
Cohen	Higgins	Michel	Rummel	Vickerman
Dahle	Johnson	Moua	Saltzman	Wiger
Day	Jungbauer	Murphy	Saxhaug	
Dibble	Kelash	Olseen	Scheid	
Dille	Koch	Olson, G.	Senjem	
Doll	Koering	Olson, M.	Sheran	

Those who voted in the negative were:

Ingebrigtsen

So the bill passed and its title was agreed to.

**S.F. No. 203:** A bill for an act relating to health; establishing oversight for health cooperative arrangements; establishing an application fee; appropriating money; amending Minnesota Statutes 2008, section 13.381, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 62R.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 48 and nays 19, as follows:

Those who voted in the affirmative were:

Anderson	Dille	Kubly	Olson, M.	Skoe
Bakk	Doll	Langseth	Pappas	Skogen
Betzold	Erickson Ropes	Latz	Pogemiller	Sparks
Carlson	Fischbach	Lourey	Rummel	Stumpf
Chaudhary	Fobbe	Lynch	Saltzman	Tomassoni
Clark	Foley	Marty	Saxhaug	Torres Ray
Cohen	Frederickson	Metzen	Scheid	Vickerman
Dahle	Gimse	Moua	Senjem	Wiger
Day	Higgins	Murphy	Sheran	
Dibble	Kelash	Olseen	Sieben	

Those who voted in the negative were:

Berglin	Ingebrigtsen	Koering	Ortman	Robling
Bonoff	Johnson	Limmer	Pariseau	Rosen
Gerlach	Jungbauer	Michel	Prettner Solon	Vandever
Hann	Koch	Olson, G.	Rest	

So the bill passed and its title was agreed to.

**S.F. No. 1705:** A bill for an act relating to railroads; modifying membership on Commuter Rail Corridor Coordinating Committee; amending Minnesota Statutes 2008, section 174.86, subdivision 5.

Was read the third time and placed on its final passage.



The question was taken on the passage of the bill.

The roll was called, and there were yeas 61 and nays 6, as follows:

Those who voted in the affirmative were:

Anderson	Doll	Kubly	Pappas	Sieben
Bakk	Erickson Ropes	Langseth	Pariseau	Skoe
Berglin	Fischbach	Latz	Pogemiller	Skogen
Betzold	Fobbe	Lourey	Prettner Solon	Sparks
Bonoff	Foley	Lynch	Rest	Stumpf
Carlson	Frederickson	Marty	Robling	Tomassoni
Chaudhary	Gerlach	Metzen	Rosen	Torres Ray
Clark	Gimse	Michel	Rummel	Vickerman
Cohen	Higgins	Moua	Saltzman	Wiger
Dahle	Johnson	Murphy	Saxhaug	
Day	Kelash	Olseen	Scheid	
Dibble	Koch	Olson, G.	Senjem	
Dille	Koering	Olson, M.	Sheran	

Those who voted in the negative were:

Hann	Jungbauer	Ortman
Ingebrigtsen	Limmer	Vandev eer

So the bill passed and its title was agreed to.

**S.F. No. 548:** A bill for an act relating to marriage; clarifying and modifying certain terms and procedures; specifying forms; amending Minnesota Statutes 2008, sections 517.02; 517.03, subdivision 2; 517.04; 517.05; 517.06; 517.07; 517.08, subdivisions 1a, 1b; 517.10; 517.101; 517.13.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 67 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Erickson Ropes	Koering	Olson, M.	Sheran
Bakk	Fischbach	Kubly	Ortman	Sieben
Berglin	Fobbe	Langseth	Pappas	Skoe
Betzold	Foley	Latz	Pariseau	Skogen
Bonoff	Frederickson	Limmer	Pogemiller	Sparks
Carlson	Gerlach	Lourey	Prettner Solon	Stumpf
Chaudhary	Gimse	Lynch	Rest	Tomassoni
Clark	Hann	Marty	Robling	Torres Ray
Cohen	Higgins	Metzen	Rosen	Vandev eer
Dahle	Ingebrigtsen	Michel	Rummel	Vickerman
Day	Johnson	Moua	Saltzman	Wiger
Dibble	Jungbauer	Murphy	Saxhaug	
Dille	Kelash	Olseen	Scheid	
Doll	Koch	Olson, G.	Senjem	

So the bill passed and its title was agreed to.

**S.F. No. 1436:** A bill for an act relating to human services; modifying provisions relating to the Minnesota sex offender program; creating additional oversight to the Minnesota sex offender program; creating a client grievance process; allowing access to the statewide supervision system; making changes to the vocational work program; requiring a report; imposing criminal penalties; amending Minnesota Statutes 2008, sections 16C.10, subdivision 5; 168.012, subdivision 1;

246B.01, by adding subdivisions; 246B.02; 246B.03; 246B.05; 246B.06; 609.485, subdivisions 2, 4; proposing coding for new law in Minnesota Statutes, chapter 246B.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 67 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Erickson Ropes	Koering	Olson, M.	Sheran
Bakk	Fischbach	Kubly	Ortman	Sieben
Berglin	Fobbe	Langseth	Pappas	Skoe
Betzold	Foley	Latz	Pariseau	Skogen
Bonoff	Frederickson	Limmer	Pogemiller	Sparks
Carlson	Gerlach	Lourey	Prettner Solon	Stumpf
Chaudhary	Gimse	Lynch	Rest	Tomassoni
Clark	Hann	Marty	Robling	Torres Ray
Cohen	Higgins	Metzen	Rosen	Vanderveer
Dahle	Ingebrigtsen	Michel	Rummel	Vickerman
Day	Johnson	Moua	Saltzman	Wiger
Dibble	Jungbauer	Murphy	Saxhaug	
Dille	Kelash	Olseen	Scheid	
Doll	Koch	Olson, G.	Senjem	

So the bill passed and its title was agreed to.

**H.F. No. 1677:** A bill for an act relating to the safe at home program; specifying applicability; eliminating certain persons from eligibility; amending Minnesota Statutes 2008, sections 5B.01; 5B.02.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 67 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Erickson Ropes	Koering	Olson, M.	Sheran
Bakk	Fischbach	Kubly	Ortman	Sieben
Berglin	Fobbe	Langseth	Pappas	Skoe
Betzold	Foley	Latz	Pariseau	Skogen
Bonoff	Frederickson	Limmer	Pogemiller	Sparks
Carlson	Gerlach	Lourey	Prettner Solon	Stumpf
Chaudhary	Gimse	Lynch	Rest	Tomassoni
Clark	Hann	Marty	Robling	Torres Ray
Cohen	Higgins	Metzen	Rosen	Vanderveer
Dahle	Ingebrigtsen	Michel	Rummel	Vickerman
Day	Johnson	Moua	Saltzman	Wiger
Dibble	Jungbauer	Murphy	Saxhaug	
Dille	Kelash	Olseen	Scheid	
Doll	Koch	Olson, G.	Senjem	

So the bill passed and its title was agreed to.

#### MOTIONS AND RESOLUTIONS - CONTINUED

Senator Pogemiller moved that H.F. No. 1231 be taken from the table. The motion prevailed.

**H.F. No. 1231:** A bill for an act relating to state government; appropriating money from constitutionally dedicated funds and providing for policy and governance of outdoor heritage, clean water, parks and trails, and arts and cultural heritage purposes; establishing and modifying grants and funding programs; providing for advisory groups; providing appointments; requiring reports; requiring rulemaking; amending Minnesota Statutes 2008, sections 3.303, by adding a subdivision; 3.971, by adding a subdivision; 17.117, subdivision 11a; 18G.11, by adding a subdivision; 84.02, by adding subdivisions; 85.53; 97A.056, subdivisions 2, 3, 6, 7, by adding subdivisions; 103F.515, subdivisions 2, 4; 114D.50; 116G.15; 116P.05, subdivision 2; 129D.17; 477A.12, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 3; 84; 84C; 85; 116; 129D; 138; 477A.

### SUSPENSION OF RULES

Senator Pogemiller moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 1231 and that the rules of the Senate be so far suspended as to give H.F. No. 1231 its second and third reading and place it on its final passage. The motion prevailed.

H.F. No. 1231 was read the second time.

Senator Rummel moved to amend H.F. No. 1231 as follows:

Delete everything after the enacting clause and insert:

#### "ARTICLE 1

### OUTDOOR HERITAGE FUND

#### Section 1. OUTDOOR HERITAGE APPROPRIATION.

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the outdoor heritage fund and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. "The first year" is fiscal year 2010. "The second year" is fiscal year 2011. "The biennium" is fiscal years 2010 and 2011. The appropriations in this article are onetime.

	<u>APPROPRIATIONS</u>	
	<u>Available for the Year</u>	
	<u>Ending June 30</u>	
	<u>2010</u>	<u>2011</u>
Sec. 2. <u>OUTDOOR HERITAGE</u>		
Subdivision 1. <u>Total Appropriation</u>	\$ <u>69,522,000</u>	\$ <u>16,000,000</u>

This appropriation is from the outdoor

heritage fund.

The amounts that may be spent for each purpose are specified in the following subdivisions.

Subd. 2. **Prairies**

14,213,000

-0-

(a) **Accelerated Prairie and Grassland Management**

\$1,700,000 in fiscal year 2010 is to the commissioner of natural resources to accelerate the restoration and enhancement of native prairie vegetation on public lands, including roadsides. A list of proposed projects, describing the types and locations of restorations and enhancements, must be provided as part of the required accomplishment plan.

(b) **Green Corridor Legacy Program**

\$1,617,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with the Southwest Initiative Foundation to acquire land in Redwood County to be added to the state outdoor recreation system. A list of proposed fee title acquisitions must be provided as part of the required accomplishment plan. The commissioner of natural resources must agree to each proposed acquisition. No more than five percent of this appropriation may be spent on professional services directly related to this appropriation's purposes.

(c) **Prairie Heritage Fund – Acquisition and Restoration**

\$3,000,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with Pheasants Forever to acquire and restore land to be added to the state wildlife management area system. A list of proposed fee title acquisitions and a list of proposed restoration projects, describing the types and locations of restorations, must be provided as part of the required

accomplishment plan. The commissioner of natural resources must agree to each proposed acquisition.

**(d) Accelerated Prairie Grassland Wildlife Management Area Acquisition**

\$3,913,000 in fiscal year 2010 is to the commissioner of natural resources to acquire land for wildlife management areas with native prairie or grassland habitats. A list of proposed fee title acquisitions must be provided as part of the required accomplishment plan.

**(e) Northern Tall Grass Prairie National Wildlife Refuge Protection**

\$1,583,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with the United States Fish and Wildlife Service to acquire land or permanent easements within the Northern Tall Grass Prairie Habitat Preservation Area in western Minnesota. The commissioner may advance funds to the United States Fish and Wildlife Service. A list of proposed fee title and permanent easement acquisitions must be provided as part of the required accomplishment plan.

**(f) Bluffland Prairie Protection Initiative**

\$500,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with the Minnesota Land Trust to acquire permanent easements protecting critical prairie and grassland habitats in the blufflands in southeastern Minnesota. A list of proposed fee title and permanent easement acquisitions must be provided as part of the required accomplishment plan.

**(g) Rum River – Cedar Creek Initiative**

\$1,900,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with Anoka County to acquire land

at the confluence of the Rum River and Cedar Creek in Anoka County. Acquired land must remain open to hunting and fishing, consistent with the capacity of the land, during the open season, as determined by the commissioner of natural resources. This is the first of two planned appropriations for this acquisition.

**Subd. 3. Forests**

20,000,000

16,000,000

\$20,000,000 in fiscal year 2010 and \$16,000,000 in fiscal year 2011 are to the commissioner of natural resources to acquire land or permanent working forest easements on private forests in areas identified through the Minnesota forests for the future program under Minnesota Statutes, section 84.66. Priority must be given to acquiring land or interests in private lands within existing Minnesota state forest boundaries. Any easements acquired must have a forest management plan as defined in Minnesota Statutes, section 290C.02, subdivision 7. A list of proposed fee title and easement acquisitions must be provided as part of the required accomplishment plan. The fiscal year 2011 appropriation is available only for acquisitions that, by August 15, 2009, are:

(1) subject to a binding agreement with the commissioner; and

(2) matched by at least \$9,000,000 in private donations.

**Subd. 4. Wetlands**

20,536,000

-0-

**(a) Accelerated Wildlife Management Area Acquisition**

\$2,900,000 in fiscal year 2010 is to the commissioner of natural resources to acquire land for wildlife management areas. A list of proposed fee title acquisitions must be provided as part of the required accomplishment plan.

**(b) Accelerated Shallow Lake Restorations and Enhancements**

\$2,528,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with Ducks Unlimited, Inc. to restore and enhance shallow lake habitats. Up to \$400,000 of this appropriation may be used for permanent easements related to shallow lake restorations and enhancements. A list of proposed easements and projects, describing the types and locations of easements, restorations, and enhancements, must be provided as part of the required accomplishment plan. The commissioner of natural resources must agree to each easement, restoration, and enhancement.

**(c) Accelerate the Waterfowl Production Area Program in Minnesota**

\$5,600,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with Pheasants Forever to acquire and restore wetland and related upland habitats, in cooperation with the United States Fish and Wildlife Service and Ducks Unlimited, Inc., to be managed as waterfowl production areas. A list of proposed acquisitions and a list of proposed projects, describing the types and locations of restorations, must be provided as part of the required accomplishment plan.

**(d) Reinvest in Minnesota Wetlands Reserve Program Acquisition and Restoration**

\$9,058,000 in fiscal year 2010 is to the Board of Water and Soil Resources to acquire permanent easements and restore wetlands and associated uplands in cooperation with the United States Department of Agriculture Wetlands Reserve Program. A list of proposed acquisitions and a list of proposed projects, describing the types and locations of restorations, must be provided as part of the required accomplishment plan.

**(e) Shallow Lake Critical Shoreland**

\$450,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with Ducks Unlimited, Inc. to protect habitat by acquiring land associated with shallow lakes. A list of proposed acquisitions must be provided as part of the required accomplishment plan. The commissioner of natural resources must agree to each proposed acquisition.

**Subd. 5. Fish, Game, and Wildlife Habitat**13,903,000-0-**(a) Outdoor Heritage Conservation Partners Grant Program**

\$4,000,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with the National Fish and Wildlife Foundation to provide competitive, matching grants of up to \$400,000 to local, regional, state, and national organizations, including government, for enhancement, restoration, or protection of forests, wetlands, prairies, and habitat for fish, game, or wildlife in Minnesota. The funds may be advanced in three equal sums, on or after November 1, 2009, February 1, 2010, and April 1, 2010. Grantees may protect land through acquisition of land or interests in land. Easements must be permanent. Land acquired in fee must be open to hunting and fishing during the open season unless otherwise provided by state law. The commissioner of natural resources must agree to each proposed acquisition of land or interest in land. The program shall require a match of at least \$1 nonstate funds to \$10 state funds. Nonstate dollars match may be in-kind. The criteria for evaluating grant applications must include amount of habitat restored, enhanced, or protected; local support; degree of collaboration; urgency; multiple benefits; habitat benefits provided; consistency with sound conservation science; adjacency to protected lands; full funding



of the project; supplementing existing funding; public access for hunting and fishing during the open season; sustainability; and use of native plant materials. All projects must conform to the Minnesota statewide conservation and preservation plan. Wildlife habitat projects must also conform to the state wildlife action plan. All restoration or enhancement projects must be on land permanently protected by conservation easement or public ownership. No more than four of the members of the Lessard Outdoor Heritage Council may be selected to sit on any advising panel developed by the National Fish and Wildlife Foundation. The program must be open for application year-round and grants must be evaluated and granted at least every three months. Up to six percent of this appropriation is available for grant program management expenses, including indirect expenses related to this grant program, of the National Fish and Wildlife Foundation. The National Fish and Wildlife Foundation's administration and management must be consistent with Minnesota Statutes, sections 16B.97 and 16B.98, and policies adopted thereunder by the Department of Administration, Office of Grants Management. Subdivision 10 applies to grants awarded under this paragraph. This appropriation is available until June 30, 2013, at which time all grant projects must be completed and final products delivered, unless an earlier date is specified in the grant agreement. No less than 15 percent of the amount of each grant must be held back from reimbursement until the grant recipient has completed a grant accomplishment report in the form prescribed by and satisfactory to the Lessard Outdoor Heritage Council.

**(b) Aquatic Management Area Acquisition**

\$5,748,000 in fiscal year 2010 is to the commissioner of natural resources to acquire land in fee title and easement to be added to the state aquatic management area system.

Acquired land must remain open to hunting and fishing, consistent with the capacity of the land, during the open season, as determined by the commissioner of natural resources. A list of proposed fee title and easement acquisitions must be provided as part of the required accomplishment plan.

**(c) Cold Water River and Stream Restoration, Protection, and Enhancement**

\$2,050,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with Trout Unlimited to restore, enhance, and protect cold water river and stream habitats in Minnesota. A list of proposed acquisitions and a list of proposed projects, describing the types and locations of restorations and enhancements, must be provided as part of the required accomplishment plan. The commissioner of natural resources must agree to each proposed acquisition, restoration, and enhancement.

**(d) Dakota County Habitat Protection**

\$1,000,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with Dakota County for acquisition of permanent easements. A list of proposed acquisitions must be provided as part of the required accomplishment plan.

**(e) Lake Rebecca Water Quality Improvement Project**

\$450,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with the Three Rivers Park District to improve the water quality in Lake Rebecca in Lake Rebecca Park Reserve in Hennepin County. A description of the activities to enhance fish habitat in Lake Rebecca must be provided as part of the required accomplishment plan.

**(f) Fountain Lake Fish Barriers**

\$655,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with the Shell Rock River Watershed District to construct fish barriers at three locations on Fountain Lake. Land acquisition necessary for fish barrier construction is permitted. A list of proposed projects, describing the types and locations of barriers, must be provided as part of the required accomplishment plan. The commissioner of natural resources must agree to each proposed barrier.

**Subd. 6. Administration and Other**

870,000

-0-

**(a) Contract Management**

\$175,000 in fiscal year 2010 is to the commissioner of natural resources for contract management, in fiscal years 2010 and 2011, for duties assigned in this section.

**(b) Legislative Coordinating Commission**

\$695,000 in fiscal year 2010 is to the Legislative Coordinating Commission for administrative expenses of the Lessard Outdoor Heritage Council and for compensation and expense reimbursement of council members. Up to \$100,000 may be transferred to the game and fish fund as reimbursement for advances to the Lessard Outdoor Heritage Council made in fiscal year 2009.

**(c) Lessard Outdoor Heritage Council Site Visit Exception**

Travel to and from site visits by council members paid for under paragraph (b) are not meetings of the council for the purpose of receiving information under Minnesota Statutes, section 97A.056, subdivision 5.

**Subd. 7. Availability of Appropriation**

Unless otherwise provided, the amounts in this section are available until June 30, 2011,

when projects must be completed and final accomplishments reported. For acquisition of an interest in real property, the amounts in this section are available until June 30, 2012. If a project receives federal funds, the time period of the appropriation is extended to equal the availability of federal funding.

**Subd. 8. Cash Advances**

When the operations of the outdoor heritage fund would be impeded by projected cash deficiencies resulting from delays in the receipt of dedicated income, and when the deficiencies would be corrected within fiscal year 2010, the commissioner of finance may use fund-level cash reserves to meet cash demands of the outdoor heritage fund. If funds are transferred from the general fund to meet cash flow needs, the cash flow transfers must be returned to the general fund as soon as sufficient cash balances are available in the outdoor heritage fund. Any interest earned on general fund cash flow transfers accrues to the general fund and not to the outdoor heritage fund.

**Subd. 9. Accomplishment Plans**

It is a condition of acceptance of the appropriations made by this section that the agency or entity using the appropriation shall submit to the council an accomplishment plan and periodic accomplishment reports in the form determined by the Lessard Outdoor Heritage Council. The accomplishment plan must account for the use of the appropriation and outcomes of the expenditure in measures of wetlands, prairies, forests, and fish, game, and wildlife habitat restored, protected, and enhanced. The plan must include evaluation of results. None of the money provided in this section may be expended unless the council has approved the pertinent accomplishment plan.

**Subd. 10. Project Requirements**

(a) As a condition of accepting an appropriation in this section, any agency or entity receiving an appropriation must, for any project funded in whole or in part with funds from the appropriation:

(1) plant vegetation or sow seed only of native ecotypes to Minnesota and preferably of the local ecotype using a high diversity of species grown as close to the restoration site as possible, if the planting of vegetation or sowing of seed is a component of the accomplishment plan;

(2) provide that all easements:

(i) are permanent;

(ii) specify the parties to an easement in the easement;

(iii) specify all of the provisions of an agreement that are permanent;

(iv) are sent to the office of the Lessard Outdoor Heritage Council; and

(v) include a long-term stewardship plan and funding for monitoring and enforcing the easement agreement;

(3) for all restorations, prepare an ecological restoration and management plan that, to the degree practicable, is consistent with the highest quality conservation and ecological goals for the restoration site. Consideration should be given to soil, geology, topography, and other relevant factors that would provide the best chance for long-term success of the restoration projects. The plan shall include the proposed timetable for implementing the restoration, including, but not limited to, site preparation, establishment of diverse plant species, maintenance, and additional enhancement to establish the restoration; identify long-term maintenance and management needs of the restoration and how the maintenance, management, and enhancement will be financed; and use the best available science to achieve the best

restoration;

(4) for new lands acquired, prepare a restoration and management plan in compliance with clause (3), including identification of sufficient funding for implementation;

(5) to ensure public accountability for the use of public funds, provide to the Lessard Outdoor Heritage Council documentation of the selection process used to identify parcels acquired and provide documentation of all related transaction costs, including but not limited to appraisals, legal fees, recording fees, commissions, other similar costs, and donations. This information must be provided for all parties involved in the transaction. The recipient shall also report to the Lessard Outdoor Heritage Council any difference between the acquisition amount paid to the seller and the state-certified or state-reviewed appraisal. Acquisition data such as appraisals may remain private during negotiations but must ultimately be made public according to Minnesota Statutes, chapter 13;

(6) provide that all restoration and enhancement projects are on land permanently protected by conservation easement or public ownership; and

(7) give consideration to contracting with the Minnesota Conservation Corps for contract restoration and enhancement services.

(b) The Lessard Outdoor Heritage Council may waive the application of paragraph (a), clause (5), for specific projects.

**Subd. 11. Payment Conditions and Capital Equipment Expenditures**

All agreements, grants, or contracts referred to in this section must be administered on a reimbursement basis unless otherwise provided in this section. Payments for reimbursement may not be made before November 1, 2009. Notwithstanding

Minnesota Statutes, section 16A.41, expenditures directly related to each appropriation's purpose made on or after July 1, 2009, are eligible for reimbursement unless otherwise provided in this section. Periodic payment must be made upon receiving documentation that the deliverable items articulated in the approved accomplishment plan have been achieved, including partial achievements as evidenced by approved progress reports. Reasonable amounts may be advanced to projects to accommodate cash flow needs or to match federal share. The advances must be approved as part of the accomplishment plan. Capital equipment expenditures in excess of \$10,000 must be approved as part of the accomplishment plan.

**Subd. 12. Purchase of Recycled and Recyclable Materials**

A political subdivision, public or private corporation, or other entity that receives an appropriation in this section must use the appropriation in compliance with Minnesota Statutes, sections 16B.121, regarding purchase of recycled, repairable, and durable materials, and 16B.122, regarding purchase and use of paper stock and printing.

**Subd. 13. Accessibility**

Structural and nonstructural facilities must meet the design standards in the Americans with Disabilities Act (ADA) accessibility guidelines.

**Subd. 14. Land Acquisition Restrictions**

(a) An interest in real property, including but not limited to an easement or fee title, that is acquired with money appropriated under this section must be used in perpetuity or for the specific term of an easement interest for the purpose for which the appropriation was made.

(b) A recipient of funding who acquires

an interest in real property subject to this subdivision may not alter the intended use of the interest in real property or convey any interest in the real property acquired with the appropriation without the prior review and approval of the Lessard Outdoor Heritage Council or its successor. The council shall establish procedures to review requests from recipients to alter the use of or convey an interest in real property. These procedures shall allow for the replacement of the interest in real property with another interest in real property meeting the following criteria:

(1) the interest is at least equal in fair market value, as certified by the commissioner of natural resources, to the interest being replaced; and

(2) the interest is in a reasonably equivalent location and has a reasonably equivalent useful conservation purpose compared to the interest being replaced.

(c) A recipient of funding who acquires an interest in real property under paragraph (a) must separately record a notice of funding restrictions in the appropriate local government office where the conveyance of the interest in real property is filed. The notice of funding agreement must contain:

(1) a legal description of the interest in real property covered by the funding agreement;

(2) a reference to the underlying funding agreement;

(3) a reference to this section; and

(4) the following statement: "This interest in real property shall be administered in accordance with the terms, conditions, and purposes of the grant agreement controlling the acquisition of the property. The interest in real property, or any portion of the interest in real property, shall not be sold, transferred, pledged, or otherwise disposed of or further encumbered without obtaining the prior written approval of the Lessard Outdoor



Heritage Council or its successor. If the holder of the interest in real property fails to comply with the terms and conditions of the grant agreement or work program, ownership of the interest in real property shall transfer to the state."

**Subd. 15. Real Property Interest Report**

By December 1 each year, a recipient of money appropriated under this section that is used for the acquisition of an interest in real property, including but not limited to an easement or fee title, must submit annual reports on the status of the real property to the Lessard Outdoor Heritage Council or its successor in a form determined by the council. The responsibility for reporting under this section may be transferred by the recipient of the appropriation to another person or entity that holds the interest in the real property. To complete the transfer of reporting responsibility, the recipient of the appropriation must:

(1) inform the person to whom the responsibility is transferred of that person's reporting responsibility;

(2) inform the person to whom the responsibility is transferred of the property restrictions under subdivision 14; and

(3) provide written notice to the council of the transfer of reporting responsibility, including contact information for the person to whom the responsibility is transferred. Before the transfer, the entity receiving the transfer of property must certify to the Lessard Outdoor Heritage Council, or its successor, acceptance of all obligations and responsibilities held by the prior owner.

After the transfer, the person or entity that holds the interest in the real property is responsible for reporting requirements under this section.

Sec. 3. Minnesota Statutes 2008, section 97A.056, subdivision 2, is amended to read:

Subd. 2. **Lessard Outdoor Heritage Council.** (a) The Lessard Outdoor Heritage Council of 12 members is created in the legislative branch, consisting of:

(1) two public members appointed by the senate Subcommittee on Committees of the Committee on Rules and Administration;

(2) two public members appointed by the speaker of the house;

(3) four public members appointed by the governor;

(4) two members of the senate appointed by the senate Subcommittee on Committees of the Committee on Rules and Administration; and

(5) two members of the house of representatives appointed by the speaker of the house.

(b) Members appointed under paragraph (a) must not be registered lobbyists. In making appointments, the governor, senate Subcommittee on Committees of the Committee on Rules and Administration, and the speaker of the house shall consider geographic balance, gender, age, ethnicity, and varying interests including hunting and fishing. The governor's appointments to the council are subject to the advice and consent of the senate.

(c) Public members appointed under paragraph (a) shall have practical experience or expertise or demonstrated knowledge in the science, policy, or practice of restoring, protecting, and enhancing wetlands, prairies, forests, and habitat for fish, game, and wildlife.

(d) Legislative members appointed under paragraph (a) shall include the chairs of the legislative committees with jurisdiction over environment and natural resources finance or their designee, one member from the minority party of the senate, and one member from the minority party of the house of representatives.

(e) Members serve four-year terms and shall be initially appointed according to the following schedule of terms:

(1) two public members appointed by the governor for a term ending the first Monday in January 2011;

(2) one public member appointed by the senate Subcommittee on Committees of the Committee on Rules and Administration for a term ending the first Monday in January 2011;

(3) one public member appointed by the speaker of the house for a term ending the first Monday in January 2011;

(4) two public members appointed by the governor for a term ending the first Monday in January 2013;

(5) one public member appointed by the senate Subcommittee on Committees of the Committee on Rules and Administration for a term ending the first Monday in January 2013;

(6) one public member appointed by the speaker of the house for a term ending the first Monday in January 2013; and

(7) two members of the senate appointed by the senate Subcommittee on Committees of the Committee on Rules and Administration for a term ending the first Monday in January 2013, and

two members of the house of representatives appointed by the speaker of the house for a term ending the first Monday in January 2013.

(f) Compensation and removal of public members are as provided in section 15.0575. A vacancy on the council may be filled by the appointing authority for the remainder of the unexpired term.

(g) The first meeting of the council shall be convened by the chair of the Legislative Coordinating Commission no later than December 1, 2008. Members shall elect a chair, vice-chair, secretary, and other officers as determined by the council. The chair may convene meetings as necessary to conduct the duties prescribed by this section.

(h) ~~The Department of Natural Resources shall provide administrative support for council may employ staff and contract with consultants as necessary to carry out the functions of the council. Up to one percent of the money appropriated from the fund may be used to cover the staffing and related administrative expenses of the department and to cover the compensation and travel expenses pay for administrative expenses of the council and for compensation and expense reimbursement of council members.~~

Sec. 4. Minnesota Statutes 2008, section 97A.056, subdivision 7, is amended to read:

Subd. 7. **Legislative oversight.** (a) The senate and house of representatives chairs of the committees with jurisdiction over the environment and natural resources budget shall convene a joint hearing to review the activities and evaluate the effectiveness of the council and evaluate the effectiveness and efficiency of the department's administration and staffing of the council after five years but no later than June 30, 2014.

(b) By January 15, 2013, a professional outside review authority shall be chosen by the chairs of the house of representatives and senate committees with jurisdiction over environment and natural resources to evaluate the effectiveness and efficiency of the department's administration and staffing of the council. A report shall be submitted to the chairs by January 15, 2014.

## ARTICLE 2

### CLEAN WATER FUND

#### Section 1. SUMMARY OF APPROPRIATIONS.

The amounts shown in this section summarize direct appropriations from the clean water fund, by agency, made in this article.

	<u>2010</u>	<u>2011</u>	<u>Total</u>
<u>Pollution Control Agency</u> \$	<u>15,325,000</u> \$	<u>18,600,000</u> \$	<u>33,925,000</u>
<u>Department of Natural Resources</u>	<u>6,943,000</u>	<u>9,142,000</u>	<u>16,085,000</u>
<u>Board of Water and Soil Resources</u>	<u>20,175,000</u>	<u>22,865,000</u>	<u>43,040,000</u>
<u>Department of Agriculture</u>	<u>3,935,000</u>	<u>4,360,000</u>	<u>8,295,000</u>
<u>Department of Health</u>	<u>1,600,000</u>	<u>2,150,000</u>	<u>3,750,000</u>

<u>Metropolitan Council</u>	<u>400,000</u>	<u>500,000</u>	<u>900,000</u>
<u>Public Facilities Authority</u>	<u>20,272,000</u>	<u>23,678,000</u>	<u>43,950,000</u>
<u>University of Minnesota</u>	<u>872,000</u>	<u>183,000</u>	<u>1,055,000</u>
<b><u>Total</u></b>	<b><u>\$ 69,522,000 \$</u></b>	<b><u>81,478,000 \$</u></b>	<b><u>151,000,000</u></b>

**Sec. 2. CLEAN WATER FUND APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the clean water fund, and are available for the fiscal years indicated for allowable activities under the Minnesota Constitution, article XI, section 15. The figures "2010" and "2011" used in this act mean that the appropriation listed under them are available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. "The first year" is fiscal year 2010. "The second year" is fiscal year 2011. "The biennium" is fiscal years 2010 and 2011. The appropriations in this act are onetime.

<b><u>APPROPRIATIONS</u></b>	
<b><u>Available for the Year</u></b>	
<b><u>Ending June 30</u></b>	
<b><u>2010</u></b>	<b><u>2011</u></b>

**Sec. 3. NONPOINT SOURCE PROTECTION AND PRESERVATION**

<b><u>Subdivision 1. Total Appropriation</u></b>	<b><u>\$ 24,050,000 \$</u></b>	<b><u>27,740,000</u></b>
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The appropriations in this section are to the agencies specified for the protection, enhancement, and restoration of lakes, rivers, and streams.

<b><u>Subd. 2. Nonpoint Source Restoration, Protection, and Preservation</u></b>	<b><u>1,500,000</u></b>	<b><u>2,000,000</u></b>
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To the Department of Natural Resources for nonpoint source restoration and protection activities. Money appropriated under this subdivision must be used to acquire aquatic management areas to address water quality protection under a total maximum daily load (TMDL) implementation plan.

<b><u>Subd. 3. Targeted Nonpoint Source Pollution Reduction</u></b>	<b><u>9,200,000</u></b>	<b><u>10,000,000</u></b>
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(a) To the Board of Water and Soil Resources

for targeted nonpoint source pollution reduction projects to restore water quality in lakes, rivers, and streams. At least 93 percent of this amount must be made available for grants. At least 20 percent of this amount must be for water quality grants in the Twin Cities metropolitan area.

(b) \$400,000 the first year and \$600,000 the second year are to the Anoka Conservation District for the metropolitan landscape restoration program for water quality and improvement projects.

(c) The Board of Water and Soil Resources shall contract for services with the Minnesota Conservation Corps for restoration, maintenance, and other activities under this subdivision for at least \$500,000 the first year and \$500,000 the second year.

**Subd. 4. Nonpoint Restoration Technical Assistance and Engineering**

2,500,000

3,000,000

To the Board of Water and Soil Resources for targeted nonpoint restoration technical assistance and engineering. At least 93 percent of this amount must be made available for grants.

**Subd. 5. Subsurface Sewage Treatment System Program**

1,600,0000

1,900,000

To the Board of Water and Soil Resources for grants to implement county subsurface sewage treatment system (SSTS) programs, including inventories, enforcement, development of databases, and systems to insure SSTS maintenance reporting program results to the Board of Water and Soil Resources and the Pollution Control Agency, and base grants. Grants are limited to counties with ordinances adopted pursuant to Minnesota Statutes, section 115.55, subdivision 2, that can demonstrate enforcement of the ordinances.

**Subd. 6. Failing Subsurface Sewage Treatment Systems**

800,000

1,000,000

To the Board of Water and Soil Resources for grants to address imminent threat and failing subsurface sewage treatment systems.

**Subd. 7. Feedlot Water Quality Grants**

1,800,000

2,200,000

To the Board of Water and Soil Resources for feedlot water quality grants to upgrade feedlots in riparian and shoreland areas to address feedlot-related water quality impacts.

**Subd. 8. Local Nonpoint Source Activity Support**

1,700,000

2,300,000

To the Board of Water and Soil Resources for grants to support local nonpoint source protection activities that show demonstrated results on lake, river, and stream protection and management.

**Subd. 9. Shoreline Protection and Restoration Grants**

2,100,000

1,900,000

(a) To the Board of Water and Soil Resources for grants to implement stream bank, stream channel, lakeshore, and roadside protection and restoration projects that show demonstrated results on lake, river, or stream protection and management.

(b) \$500,000 the first year is for a grant to Hennepin County for riparian restoration and stream bank stabilization in the ten primary stream systems in Hennepin County in order to protect, enhance, and help restore the water quality of the streams and downstream receiving waters. The county shall work with watershed districts and water management organizations to identify and prioritize projects. To the extent possible, the county shall employ youth through the Minnesota Conservation Corps and Tree Trust to plant trees and shrubs to reduce erosion and stabilize stream banks. This appropriation must be matched by nonstate sources, including in-kind contributions.

**Subd. 10. St. Louis River**350,000400,000

To the Pollution Control Agency for a restoration project in the lower St. Louis River and Duluth Harbor. This appropriation must be matched by nonstate money at a rate of \$2 for every \$1 of state money.

**Subd. 11. Mississippi River Critical Area**225,000225,000

To the Department 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.

**Subd. 12. Oversight, Support, and Accountability**275,000315,000

(a) To the Board of Water and Soil Resources for state oversight, support, and accountability reporting of local government implementation, including an annual report prepared jointly by the board, the commissioner of natural resources and the commissioner of the Pollution Control Agency to the legislature detailing the recipients and projects funded under this section; the anticipated water quality benefits of projects funded; the relationship of restoration projects to TMDL load allocations; the relationship of protection projects to monitored water quality trends; and individual county and aggregated statewide progress in: (1) identifying noncompliant SSTS, establishing maintenance oversight systems, and SSTS upgrades funded under paragraphs (c) and (d); and (2) identifying and upgrading open lot feedlots under 300 animal units in shoreland.

(b) Organizations receiving grants under this section shall provide information to the agencies listed in paragraph (a) on the information required in the report.

Subd. 13. Agriculture BMP Loans2,000,0002,500,000

To the Department of Agriculture for the agricultural best management practices loan program under Minnesota Statutes, section 17.117. At least 90 percent is available for pass-through to local governments and lenders for low-interest loans and is available until spent. Any unencumbered balance that is not used for pass-through to local governments does not cancel at the end of the first year and is available for the second year.

Subd. 14. Appropriation Conditions

If the appropriations in this section in either year are insufficient, the appropriation in the other year is available for it. All of the money appropriated to the Board of Water and Soil Resources in this section as grants to local governments shall be administered through the Board of Water and Soil Resources' local water resources protection and management program under Minnesota Statutes, section 103B.3369. The board may shift grant or cost-share funds in this section and may adjust the technical and administrative assistance portion of the funds to leverage federal or other nonstate funds or to address oversight responsibilities or high-priority needs identified in local water management plans.

Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered on or before June 30, 2011, as grants or contracts in this section are available until June 30, 2013.

Sec. 4. POINT SOURCE PROTECTIONSubdivision 1. Total Appropriation\$ 20,272,000 \$23,678,000

The appropriations in this section are to the agencies specified for the protection, enhancement, and restoration of lakes, rivers, and streams.

Subd. 2. TMDL Grants10,522,00012,628,000



To the Public Facilities Authority for total maximum daily loads grants under Minnesota Statutes, section 446A.073.

<b><u>Subd. 3. Phosphorus Reduction Grants</u></b>	<u>6,550,000</u>	<u>6,850,000</u>
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To the Public Facilities Authority for phosphorus reduction grants under Minnesota Statutes, section 446A.074.

<b><u>Subd. 4. Small Community Wastewater Treatment Grants and Loans</u></b>	<u>2,200,000</u>	<u>3,200,000</u>
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To the Public Facilities Authority for small community wastewater treatment grants and loans under Minnesota Statutes, section 446A.075.

<b><u>Subd. 5. Wastewater Reuse Pilot</u></b>	<u>1,000,000</u>	<u>1,000,000</u>
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(a) To the Public Facilities Authority for grants for wastewater reuse pilot projects.

(b) \$1,000,000 the first year is for grants to ethanol plants that are within one and one-half miles of a city for improvements that reuse greater than 300,000 gallons of wastewater per day.

**Subd. 6. Appropriation Conditions**

Appropriations under this section are available until spent.

**Sec. 5. ASSESSMENT, MONITORING, AND TMDL DEVELOPMENT**

<b><u>Subdivision 1. Total Appropriation</u></b>	<b><u>\$ 17,150,000</u></b>	<b><u>\$ 25,080,000</u></b>
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The appropriations in this section are to the agencies specified for the protection, enhancement, and restoration of lakes, rivers, and streams.

<b><u>Subd. 2. Statewide Assessment and Monitoring</u></b>	<u>5,850,000</u>	<u>6,950,000</u>
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(a) To the Pollution Control Agency for 20 percent of the necessary statewide assessments and monitoring of surface water

quality and trends.

(b) \$150,000 the first year and \$196,000 the second year are for grants to the Red River Watershed Management Board to enhance and expand existing river watch activities in the Red River of the North. The Red River Watershed Management Board shall provide a report that includes formal evaluation results from the river watch program to the commissioners of education and the Pollution Control Agency and to the legislative natural resources finance and policy committees and K-12 finance and policy committees by February 15, 2011.

(c) \$200,000 the first year and \$300,000 the second year are for coordination with the state of Wisconsin and the National Park Service on comprehensive water monitoring and phosphorus reduction activities in the Lake St. Croix portion of the St. Croix River. The Pollution Control Agency shall work with the St. Croix Basin Water Resources Planning Team and the St. Croix River Association in implementing the water monitoring and phosphorus reduction activities. This appropriation is available to the extent matched by nonstate sources. Money not matched by November 15, 2010, cancels for this purpose and is available for the purposes of paragraph (a).

**Subd. 3. Endocrine Disruptor Monitoring and Analysis**

175,000

200,000

To the Pollution Control Agency for endocrine disruptor monitoring and analysis. The agency shall monitor and analyze endocrine disruptors in surface waters in at least 20 additional sites. The data must be placed on the agency's Web site.

**Subd. 4. Water Quality Assessments**

1,240,000

1,760,000

To the Department of Natural Resources for work assisting in water quality assessments in supporting the identification of impaired

waters.

<b><u>Subd. 5. Pesticide Monitoring and Assessment</u></b>	<u>535,000</u>	<u>170,000</u>
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(a) To the commissioner of agriculture for pesticide monitoring and assessment.

(b) \$395,000 the first year is for a demonstration project to monitor agricultural nonpoint source pollution and implement best management practices in sub-watersheds within the Root River Watershed in southeastern Minnesota.

<b><u>Subd. 6. PCA TMDL Development</u></b>	<u>8,250,000</u>	<u>10,000,000</u>
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(a) To the Pollution Control Agency for total maximum daily load (TMDL) development and TMDL implementation plans for waters listed on the United States Environmental Protection Agency approved Impaired Waters List in accordance with Minnesota Statutes, chapter 114D. The agency shall complete an average of ten percent of the TMDLs each year over the biennium.

(b) \$250,000 the first year is for a pilot project for the development of total maximum daily load (TMDL) studies conducted on a watershed basis within the Buffalo River watershed in order to protect, enhance, and restore water quality in lakes, rivers, and streams. The pilot project shall include all necessary field work to develop TMDL studies for all impaired subwatersheds within the Buffalo River watershed and provide information necessary to complete reports for most of the remaining watersheds, including analysis of water quality data, identification of sources of water quality degradation and stressors, load allocation development, development of reports that provide protection plans for subwatersheds that meet water quality standards, and development of reports that provide information necessary to complete TMDL studies for subwatersheds that do not meet water quality standards, but are not listed as impaired.

**Subd. 7. DNR TMDL Development**900,0001,200,000

To the Department of Natural Resources for TMDL development and TMDL implementation plans for waters listed on the United States Environmental Protection Agency approved Impaired Waters List in accordance with Minnesota Statutes, chapter 114D.

**Subd. 8. MDA TMDL Technical Assistance**200,000300,000

To the Department of Agriculture for technical assistance in developing TMDL plans.

**Subd. 9. Appropriation Conditions**

Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered on or before June 30, 2011, as grants or contracts in this section are available until June 30, 2013.

**Sec. 6. GROUNDWATER AND DRINKING WATER PROTECTION****Subdivision 1. Total Appropriation****\$ 3,200,000 \$****4,430,000**

The appropriations in this section are to the agencies specified for the protection of groundwater and drinking water sources.

**Subd. 2. PCA Assessment and Protection**600,000900,000

To the Pollution Control Agency for groundwater assessment and drinking water protection.

**Subd. 3. DNR Assessment and Protection**300,000440,000

To the Department of Natural Resources for groundwater assessment and drinking water protection activities.

**Subd. 4. Contaminant Assessment**600,000735,000

To the Department of Health for additional assessment of drinking water contaminants.

<u>Subd. 5. <b>Source Water Protection and Preservation</b></u>	<u>1,000,000</u>	<u>1,415,000</u>
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To the Department of Health for additional source water protection activities.

<u>Subd. 6. <b>Metropolitan Master Plan Implementation</b></u>	<u>400,000</u>	<u>500,000</u>
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To the Metropolitan Council for implementation of the master water supply plan developed under Minnesota Statutes, section 473.1565.

<u>Subd. 7. <b>MDA Assessment and Protection</b></u>	<u>300,000</u>	<u>440,000</u>
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To the Department of Agriculture for groundwater assessment and drinking water protection activities.

Subd. 8. **Appropriation Conditions**

Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered on or before June 30, 2011, as grants or contracts in this section are available until June 30, 2013.

Sec. 7. **EDUCATION AND PUBLIC ENGAGEMENT**

<u>Subdivision 1. <b>Total Appropriation</b></u>	<u>\$</u>	<u>300,000</u>	<u>\$</u>	<u>400,000</u>
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The appropriations in this section are to the agencies specified for education and public engagement on the protection, restoration, and enhancement of waters of the state.

<u>Subd. 2. <b>Nonpoint Civic Engagement</b></u>	<u>200,000</u>	<u>250,000</u>
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(a) To the Board of Water and Soil Resources for grants for civic engagement and education in water restoration and protection activities for nonpoint sources. The board shall give consideration to civic engagement proposals from basin or sub-basin organizations, including the Mississippi Headwaters Board, the Minnesota River Joint Powers Board, Area II Minnesota River Basin Projects, and the Red River Basin Commission. The board shall develop a plan for expenditures under

this paragraph. By November 15, 2009, the plan shall be submitted to the house and senate chairs and ranking minority members of the environmental finance divisions.

(b) \$100,000 the first year and \$100,000 the second year are for grants to the Star Lake Board established under Minnesota Statutes, section 103B.702. The appropriation is a pilot program to focus on engaging citizen participation and fostering local partnerships by increasing citizen involvement in water quality enhancement by designating star lakes and rivers. The board shall include information on the results of this pilot program in its next biennial report under Minnesota Statutes, section 103B.702. The second year grants are available only if the Board of Water and Soil Resources determines that the money granted in the first year furthered the water quality goals in the star lakes program in Minnesota Statutes, section 103B.701.

**Subd. 3. TMDL Development Civic Engagement**

100,000

150,000

To the Pollution Control Agency for civic engagement in TMDL development. The agency shall develop a plan for expenditures under this paragraph. The agency shall give consideration to civic engagement proposals from basin or sub-basin organizations, including the Mississippi Headwaters Board, the Minnesota River Joint Powers Board, Area II Minnesota River Basin Projects, and the Red River Basin Commission. By November 15, 2009, the plan shall be submitted to the house and senate chairs and ranking minority members of the environmental finance divisions.

**Subd. 4. Appropriation Conditions**

Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered on or before June 30, 2011, as grants or contracts in this section are available until June 30, 2013.

Sec. 8. **RESEARCH AND TOOL DEVELOPMENT**

<b><u>Subdivision 1. Total Appropriation</u></b>	<b><u>\$</u></b>	<b><u>4,550,000</u></b>	<b><u>\$</u></b>	<b><u>4,650,000</u></b>
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The appropriations in this section are to the agencies specified for research and tool development for the protection, enhancement, and restoration of waters of the state.

<b><u>Subd. 2. Agricultural Practice Research, Evaluations, and Effectiveness</u></b>		<b><u>900,000</u></b>		<b><u>950,000</u></b>
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(a) To the Department of Agriculture for research, evaluation, and effectiveness monitoring of agricultural practices and load allocations and assisting in TMDL development in restoring impaired waters.

(b) \$150,000 the first year is for a grant to the South Central Service Cooperative to develop a water ecology pilot program to develop a model curriculum on the protection and restoration of the quality of surface water and groundwater.

(c) \$150,000 each year is for grants to the livestock environmental quality assurance program to develop resource management plans, provide resource management analysis and assistance, provide an implementation plan, and provide for annual reporting on water quality assessment and reasonable assurance of the water quality effects for the purposes of TMDL plans, including an assurance walk-through for farms enrolled in the program.

(d) December 15, 2010, the commissioner of agriculture shall submit a report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over agriculture and environment policy and finance on the activities of the livestock environmental quality assurance program. The report shall include:

- (1) the number of farms enrolled;
- (2) an analysis of the estimated water quality

improvements to enrolled farms;

(3) an analysis of the ability to provide reasonable assurance of the water quality effects; and

(4) consideration of recommendations contained in the commissioner's report on Star Farms.

**Subd. 3. County Geologic Atlases**

400,000

600,000

\$400,000 the first year and \$600,000 the second year are for collection and interpretation of subsurface geological information and acceleration of the county geologic atlas program. \$122,000 the first year and \$183,000 the second year of this appropriation is to the Board of Regents of the University of Minnesota for the Geological Survey to continue and to initiate the production of county geologic atlases. \$278,000 the first year and \$417,000 the second year of this appropriation is to the commissioner of natural resources to investigate physical and recharge characteristics. This appropriation represents a continuing effort to complete the county geologic atlases throughout the state.

**Subd. 4. High-Resolution Elevation Data**

2,500,000

3,100,000

To the commissioner of natural resources to acquire and distribute high-resolution elevation data collection using light detection and ranging to aid with impaired waters modeling and total maximum daily load implementation under Minnesota Statutes, chapter 114D.

**Subd. 5. Statewide Sustainable Water Resources Framework**

750,000

0

(a) To the University of Minnesota for the development of a statewide sustainable water resources framework to protect, conserve, and enhance the quantity and quality of the state's ground and surface waters. The detailed framework shall be



developed by the University of Minnesota Water Resources Center in cooperation with staff from the Environmental Quality Board and representatives who have expertise in water resources from federal agencies, state agencies, local governments, private nonprofits, and other interested groups. The framework must include, but is not limited to, identification of infrastructure needs; drinking water; groundwater and surface waters; storm water; agricultural and industrial needs; the interfaces of climate change, development and land use, and demographics; public engagement strategies; and accountability mechanisms.

(b) The University of Minnesota, in cooperation with staff from the Environmental Quality Board, shall submit the framework to the chairs and ranking minority members of the legislative committees with jurisdiction over environment and natural resources policy and finance by January 15, 2011.

#### Subd. 6. Appropriation Conditions

Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered on or before June 30, 2011, as grants or contracts in this section are available until June 30, 2013.

Sec. 9. 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 and valuable 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 these state, regional, and natural resources;

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

(4) protect and preserve the Mississippi River 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 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; duties. (a) The commissioner of natural resources may adopt rules under 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, related rules, and the governor's executive order number 79-19, published in the State Register on March 12, 1979, that are 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 as a multipurpose resource 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 corridor;

(4) utilizes certain reaches of the river as a source of water supply and as a receiving water for properly treated sewage, stormwater, and industrial waste effluents; 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, by rule, districts within the Mississippi River corridor critical area. The commissioner must seek to determine an appropriate number of districts within any one municipality and take into account municipal plans and policies, and existing ordinances and conditions. The commissioner shall consider the following when establishing the districts:

(1) the protection of resources that existed 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, by rule, 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 municipal plans and policies, and existing ordinances and conditions when developing the guidelines in 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, stormwater facilities, and 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 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) "base of the bluff" 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 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 10 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. For purposes of this section, a discretionary action includes all actions that require a public hearing, including variances, conditional use permits, and zoning amendments.

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. 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.

**ARTICLE 3**

**PARKS AND TRAILS FUND**

**Section 1. PARKS AND TRAILS FUND APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the parks and trails fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. "The first year" is fiscal year 2010. "The second year" is fiscal year 2011. "The biennium" is fiscal years 2010 and 2011. Appropriations for the fiscal year ending June 30, 2009, are effective the day following final enactment. All appropriations in this article are onetime.

	<u><b>APPROPRIATIONS</b></u>	
	<u><b>Available for the Year</b></u>	
	<u><b>Ending June 30</b></u>	
	<u><b>2010</b></u>	<u><b>2011</b></u>
<u>Sec. 2. <b>DEPARTMENT OF NATURAL RESOURCES</b></u>	<u><b>\$ 16,500,000</b></u>	<u><b>\$ 19,800,000</b></u>

\$13,000,000 the first year and \$15,500,000

the second year are for state parks, recreation areas, and trails to:

(1) connect people to the outdoors by providing access, conservation education, and interpretive services, including enhanced naturalist programs;

(2) accelerate natural resource management, restoration, and protection activities at state parks; and

(3) accelerate facility maintenance and rehabilitation, including energy-efficiency improvements and the use of renewable sources of energy.

\$3,500,000 the first year and \$4,300,000 the second year are for grants under new Minnesota Statutes, section 85.535, to parks and trails recognized as meeting the constitutional requirement of being a park or trail of regional or statewide significance. Grants under this section must be used only for acquisition, development, restoration, and maintenance. Up to 2.5 percent of this appropriation may be used for administering the grants.

The commissioner shall develop a ten-year strategic state parks and trails plan considering traditional funding and the funding available under the Minnesota Constitution, article XI, section 15. The plan shall incorporate the 25-year framework developed under section 7.

The commissioner shall submit an annual report on the expenditure and use of money appropriated under this section to the legislature as provided in Minnesota Statutes, section 3.195. The first year report must be submitted by March 1, 2010. In subsequent years the report shall be submitted by January 15. The report must relate the expenditure of funds by the categories established and detail the outcomes in terms of additional use of parks and trails resources, user satisfaction surveys, and other appropriate outcomes.

The department and grantees receiving money under this section shall give consideration to contracting with the Minnesota Conservation Corps for contract restoration, maintenance, and other activities.

Sec. 3. <b><u>METROPOLITAN COUNCIL</u></b>	<u>\$</u>	<u>\$13,000,000</u>	<u>\$</u>	<u>\$15,500,000</u>
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(a) To be distributed as required under new Minnesota Statutes, section 85.53, subdivision 2.

(b) The Metropolitan Council shall submit an annual report on the expenditure and use of money appropriated under this section to the legislature as provided in Minnesota Statutes, section 3.195. The first report shall be submitted by March 1, 2010. In subsequent years, the report shall be submitted by January 15. The report must detail the outcomes in terms of additional use of parks and trails resources, user satisfaction surveys, and other appropriate outcomes.

(c) The implementing agencies receiving appropriations under this section shall give consideration to contracting with the Minnesota Conservation Corps for contract restoration, maintenance, and other activities.

Sec. 4. <b><u>UNIVERSITY OF MINNESOTA</u></b>	<u>\$</u>	<u>400,000</u>	<u>\$</u>	<u>-0-</u>
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To the Board of Regents of the University of Minnesota for the Center for Changing Landscapes to create a comprehensive statewide parks and trails framework and system inventory.

Sec. 5. Minnesota Statutes 2008, section 85.53, is amended to read:

**85.53 PARKS AND TRAILS FUND.**

Subdivision 1. **Fund established; purpose.** The parks and trails fund is established in the Minnesota Constitution, article XI, section 15. All money earned by the parks and trails fund must be credited to the fund.

Subd. 2. **Metropolitan area distribution formula.** (a) Money appropriated from the parks and trails fund to the Metropolitan Council shall be distributed to implementing agencies, as defined in section 473.351, subdivision 1, paragraph (a), as grants according to the following formula:

(1) 45 percent of the money must be disbursed according to the allocation formula in section 473.351, subdivision 3, to each implementing agency;

(2) 31.5 percent of the money must be distributed based on each implementing agency's relative share of the most recent estimate of the population of the metropolitan area;

(3) 13.5 percent of the money must be distributed based on each implementing agency's relative share of nonlocal visits based on the most recent user visitation survey conducted by the Metropolitan Council; and

(4) ten percent of the money must be distributed as grants to implementing agencies for land acquisition within Metropolitan Council approved regional parks and trails master plan boundaries under the council's park acquisition opportunity grant program. The Metropolitan Council must provide a match of \$2 of the council's park bonds for every \$3 of state funds for the park acquisition opportunity grant program.

(b) Money allocated under paragraph (a) is to:

(1) connect people to the outdoors by providing access, conservation education, and interpretive services, including enhanced naturalist programs;

(2) accelerate natural resource acquisition, management, restoration, and protection activities at regional parks; and

(3) accelerate facility acquisition, development, maintenance, and rehabilitation, including energy-efficiency improvements and the use of renewable sources of energy.

#### **Sec. 6. [85.535] PARKS AND TRAILS GRANT PROGRAM.**

Subdivision 1. **Establishment.** The commissioner of natural resources shall administer a program to provide grants from the parks and trails fund to support parks and trails of regional or statewide significance. Grants shall not be made under this section for state parks, state recreational areas, or state trails.

Subd. 2. **Priorities.** In awarding trails grants under this section, the commissioner shall give priority to:

(1) trail projects that provide connectivity;

(2) trail projects that provide enhanced opportunities for commuters; and

(3) trail projects that provide enhanced safety.

Subd. 3. **Match.** Recipients must provide a nonstate cash match of at least 25 percent of the total eligible project costs.

#### **Sec. 7. CREATION OF FRAMEWORK AND INVENTORY.**

Subdivision 1. **Framework development.** (a) The University of Minnesota Center for Changing Landscapes is directed to create a long-range, 25-year framework for an integrated statewide parks and trails system that provides information on the natural resource-based recreational opportunities available throughout the state. The detailed framework must include an inventory of existing regionally and statewide significant parks and trails, respond to recreational trends and



demographic changes, and identify underserved areas, overused facilities, and gaps in the current parks and trails system. The framework must identify opportunities for enhancing existing assets, developing new assets, and linking those assets together effectively. In developing the framework and creating the inventory, the Center for Changing Landscapes shall use geographic information system technology, aerial photographs, and other pertinent data from government agencies.

(b) As part of the inventory, the Center for Changing Landscapes shall develop a user-friendly Web-based application that will function as a guide for information on state and regional parks in the state. The Department of Natural Resources and the Metropolitan Council shall work with the Center for Changing Landscapes to ensure that all the information currently available on their Web sites is incorporated into the newly developed statewide Web system. The statewide parks and trails Web guide shall be incorporated into the Department of Natural Resources Web site.

(c) In developing the framework and inventory, the Center for Changing Landscapes shall consult with the Department of Natural Resources, the Metropolitan Council, local units of government, park and trail groups, the public, and other stakeholder groups. The Center for Changing Landscapes shall ensure public participation and active involvement of user groups and local communities.

Subd. 2. **Report.** The Center for Changing Landscapes shall submit the framework in a report to the chairs and ranking minority members of the senate and house of representatives committees and divisions having jurisdiction over natural resources policy and finance by October 1, 2010.

#### **ARTICLE 4**

#### **ARTS AND CULTURAL HERITAGE FUND**

##### **Section 1. ARTS AND CULTURAL HERITAGE FUND APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the arts and cultural heritage fund, and are available for the fiscal years indicated for allowable activities under the Minnesota Constitution, article XI, section 15. The figures "2010" and "2011" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. "The first year" is fiscal year 2010. "The second year" is fiscal year 2011. "The biennium" is fiscal years 2010 and 2011. Appropriations for the fiscal year ending June 30, 2009, are effective the day following final enactment.

<b><u>APPROPRIATIONS</u></b>	
<b><u>Available for the Year</u></b>	
<b><u>Ending June 30</u></b>	
<b><u>2010</u></b>	<b><u>2011</u></b>

##### **Sec. 2. BOARD OF THE ARTS.**

<b>Subdivision 1. <u>Total Appropriation</u></b>	<b>\$</b>	<b><u>23,750,000</u></b>	<b>\$</b>	<b><u>23,750,000</u></b>
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The appropriations in this section are for arts,

arts education, and arts access and to preserve Minnesota's history and cultural heritage as specified in the following subdivisions.

**Subd. 2. Distribution Formula**

Of these amounts:

(1) up to 78 percent of the money to support Minnesota artists and arts organizations in creating, producing, and presenting high-quality arts activities; to overcome barriers to accessing high-quality arts activities; and to instill the arts into the community and public life in this state;

(2) up to 15 percent of the money for high-quality, age-appropriate arts education for Minnesotans of all ages to develop knowledge, skills, and understanding of the arts;

(3) up to five percent of the money for events and activities that represent the diverse ethnic and cultural arts traditions, including folk and traditional artists and art organizations, represented in this state; and

(4) up to three percent of the money to administer grant programs, deliver technical services, provide fiscal oversight for the statewide system, and to ensure accountability for these state resources.

Thirty percent of the total appropriated to each of the categories established in this subdivision is for grants to the regional arts councils. This percentage does not apply to administrative costs.

These appropriations are added to the agency's base budget. Any unexpended balance under this section is available in either year.

**Subd. 3. Reporting**

The executive director shall submit an annual report on the expenditure and use of money appropriated under this section to the

legislature as provided in Minnesota Statutes, section 3.195. The first year report must be submitted by March 1, 2010. In subsequent years the report shall be submitted by January 15. The report must relate the expenditure of funds by the categories established in subdivision 2.

**Subd. 4. Appropriation Conditions**

Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered on or before June 30, 2011, as grants or contracts in this section are available until June 30, 2013.

Sec. 3. <b><u>MINNESOTA HISTORICAL SOCIETY</u></b>	\$	<b><u>12,500,000</u></b>	\$	<b><u>12,500,000</u></b>
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(a) These amounts are to preserve Minnesota's history and cultural heritage.

(b) Of these amounts:

(1) up to 45 percent each year for statewide history programs and projects;

(2) up to 30 percent of the money for a competitive grant program for history programs and projects operated by or through local, county, regional, other history organizations, or local units of government;

(3) up to 25 percent of the money for history programs and projects that involve partnerships or collaboration with history or other organizations; and

(4) up to three percent of the money to administer grant programs, deliver technical services, provide fiscal oversight, and ensure accountability for these state resources. The director may allocate administrative costs between the programs.

These appropriations are added to the agency's base budget. Any unexpended balance under this section is available in either year.

(c) The director shall submit an annual report on the expenditure and use of money

appropriated under this section to the legislature as provided in Minnesota Statutes, section 3.195. The first year report must be submitted by March 1, 2010. In subsequent years the report shall be submitted by January 15. The report must relate the expenditure of funds by the categories established in paragraph (b), clauses (1) to (4).

(d) Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered on or before June 30, 2011, as grants or contracts in this section are available until June 30, 2013.

Sec. 4. <b><u>HUMANITIES COMMISSION</u></b>	<b><u>\$</u></b>	<b><u>1,500,000</u></b>	<b><u>\$</u></b>	<b><u>1,500,000</u></b>
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(a) These amounts are to preserve Minnesota's history and cultural heritage. A portion of this amount is available for organizations and programs that support ethnic and cultural diversity in this state.

(b) The commission shall submit an annual report on the expenditure and use of money appropriated under this section to the legislature as provided in Minnesota Statutes, section 3.195. The first year report must be submitted by March 1, 2010. In subsequent years the report shall be submitted by January 15.

These appropriations are added to the agency's base budget. Any unexpended balance under this section is available in either year.

(c) Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered on or before June 30, 2011, as grants or contracts in this section are available until June 30, 2013.

Sec. 5. <b><u>DEPARTMENT OF ADMINISTRATION</u></b>	<b><u>\$</u></b>	<b><u>6,150,000</u></b>	<b><u>\$</u></b>	<b><u>6,150,000</u></b>
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(a) To the commissioner of administration for arts, arts education, and arts access and to preserve Minnesota's history and cultural heritage, as specified under this section.

(b) \$3,500,000 the first year and \$3,500,000 the second year are appropriated for a grant to the Minnesota Public Television Association for production and acquisition grants in accordance with Minnesota Statutes, section 129D.18. This funding is also available to public access cable stations for arts, history, and cultural programs.

(c) \$1,325,000 the first year and \$1,325,000 the second year are appropriated for a grant to Minnesota Public Radio to create new programming and events, expand regional news service, amplify Minnesota culture to a regional and national audience, and document Minnesota's history through the Minnesota Audio Archives.

(d) \$1,325,000 the first year and \$1,325,000 the second year are appropriated for a grant to the Association of Minnesota Public Radio Stations for production and acquisition grants in accordance with Minnesota Statutes, section 129D.19.

These appropriations are added to the agency's base budget. Any unexpended balance under this section is available in either year.

(e) The commissioner shall submit an annual report on the expenditure and use of money appropriated under this section to the legislature as provided in Minnesota Statutes, sections 129D.18, subdivision 4, and 129D.19, subdivision 4.

(f) Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered on or before June 30, 2011, as grants or contracts in this section are available until June 30, 2013.

Sec. 6. **EXPLORE MINNESOTA TOURISM**                    \$                    500,000 \$                    500,000

(a) To the director of Explore Minnesota Tourism for a grant to the Minnesota Film and TV Board for grants for reimbursements to eligible film projects that promote

Minnesota's cultural heritage. "Eligible film project" means a film written by a resident of Minnesota and directed or produced by a resident of Minnesota; a film set in Minnesota and directed or produced by a resident of Minnesota; or a film that documents an event or period in Minnesota history, whether a true documentary or a fictionalized account of the historic event, and has either a writer or director who is a resident of Minnesota. Eligible film projects must be filmed in Minnesota.

(b) The director shall submit an annual report on the expenditure and use of money appropriated under this section to the legislature as provided in Minnesota Statutes, section 3.195. The first year report must be submitted by March 1, 2010. In subsequent years the report shall be submitted by January 15.

(c) Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered on or before June 30, 2011, as grants or contracts in this section are available until June 30, 2013.

<u>Sec. 7. SCIENCE MUSEUM OF MINNESOTA</u>	<u>\$</u>	<u>500,000</u>	<u>\$</u>	<u>500,000</u>
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(a) These amounts are for arts, arts education, and arts access and to preserve Minnesota's history and cultural heritage.

(b) The director shall submit an annual report on the expenditure and use of money appropriated under this section to the legislature as provided in Minnesota Statutes, section 3.195. The first year report must be submitted by March 1, 2010. In subsequent years the report shall be submitted by January 15.

(c) Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered on or before June 30, 2011, as grants or contracts in this section are available until June 30, 2013.

Sec. 8. MINNESOTA CHILDREN'S MUSEUM        \$                100,000 \$                100,000

(a) These amounts are for arts, arts education, and arts access and to preserve Minnesota's history and cultural heritage.

(b) The director shall submit an annual report on the expenditure and use of money appropriated under this section to the legislature as provided in Minnesota Statutes, section 3.195. The first year report must be submitted by March 1, 2010. In subsequent years the report shall be submitted by January 15.

(c) Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered on or before June 30, 2011, as grants or contracts in this section are available until June 30, 2013.

Sec. 9. DULUTH CHILDREN'S MUSEUM        \$                100,000 \$                100,000

(a) These amounts are for arts, arts education, and arts access and to preserve Minnesota's history and cultural heritage.

(b) The director shall submit an annual report on the expenditure and use of money appropriated under this section to the legislature as provided in Minnesota Statutes, section 3.195. The first year report must be submitted by March 1, 2010. In subsequent years the report shall be submitted by January 15.

(c) Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered on or before June 30, 2011, as grants or contracts in this section are available until June 30, 2013.

Sec. 10. INDIAN AFFAIRS COUNCIL        \$                500,000 \$                500,000

(a) These amounts are for arts, arts education, and arts access and to preserve Minnesota's history and cultural heritage.

(b) The director shall submit an annual

report on the expenditure and use of money appropriated under this section to the legislature as provided in Minnesota Statutes, section 3.195. The first year report must be submitted by March 1, 2010. In subsequent years the report shall be submitted by January 15.

(c) Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered on or before June 30, 2011, as grants or contracts in this section are available until June 30, 2013.

**Sec. 11. PERPICH CENTER FOR ARTS EDUCATION**

<u>\$</u>	<u>400,000</u>	<u>\$</u>	<u>1,200,000</u>
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(a) These amounts are for arts, arts education, and arts access and to preserve Minnesota's history and cultural heritage.

(b) The director shall submit an annual report on the expenditure and use of money appropriated under this section to the legislature as provided in Minnesota Statutes, section 3.195. The first year report must be submitted by March 1, 2010. In subsequent years the report shall be submitted by January 15.

(c) Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered on or before June 30, 2011, as grants or contracts in this section are available until June 30, 2013.

**Sec. 12. MINNESOTA ZOOLOGICAL GARDEN**

<u>\$</u>	<u>-0-</u>	<u>\$</u>	<u>100,000</u>
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(a) These amounts are for arts, arts education, and arts access and to preserve Minnesota's history and cultural heritage.

(b) The director shall submit an annual report on the expenditure and use of money appropriated under this section to the legislature as provided in Minnesota Statutes, section 3.195. The first year report must be submitted by March 1, 2010. In subsequent years the report shall be submitted by January



15.

(c) Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered on or before June 30, 2011, as grants or contracts in this section are available until June 30, 2013.

**Sec. 13. [129D.18] PUBLIC TELEVISION CULTURAL AND HERITAGE PRODUCTION AND ACQUISITION GRANTS.**

Subdivision 1. **Use of grant funds.** Money appropriated from the Minnesota arts and cultural heritage fund may be designated to make grants to public stations, as defined in section 129D.12, subdivision 2. Grants received under this section must be used to create, produce, acquire, or distribute programs that educate, enhance, or promote local, regional, or statewide items of artistic, cultural, or historic significance. Grant funds may be used to cover any expenses associated with the creation, production, acquisition, or distribution of public television programs through broadcast or online, including the creation and distribution of educational materials.

Subd. 2. **Administration.** Money appropriated under this section must be used by the commissioner of administration to make grants based upon the recommendations of the Minnesota Public Television Association.

Subd. 3. **Conditions.** (a) A public station receiving funds appropriated under this section must:

(1) make programs produced with these funds available for broadcast to all other public stations eligible to receive grants under this section;

(2) offer free public performance rights for public educational institutions;

(3) archive programs produced with these funds and make the programs available for future use through encore broadcast or other distribution, including online; and

(4) ensure that underwriting credit is given to the Minnesota arts and cultural heritage fund.

(b) Programs produced in partnership with other mission-centered nonprofit organizations may be used by the partnering organization for their own educational or promotional purposes.

Subd. 4. **Reporting.** A public station receiving funds appropriated under this section must report annually by January 15 to the commissioner and the chairs and ranking minority members of the senate and house of representatives committees and divisions having jurisdiction over arts and cultural heritage policy and budget regarding how the previous year's grant funds were expended. This report must contain specific information for each program produced and broadcast, including the cost of production, the number of stations broadcasting the program, estimated viewership, the number of Web site downloads, and other related measures. If the programs produced include educational material, the public station must report to the commissioner on these efforts.

**Sec. 14. [129D.19] GENERAL NONCOMMERCIAL RADIO CULTURAL AND HERITAGE PRODUCTION AND ACQUISITION GRANTS.**

Subdivision 1. **Use of grant funds.** Money appropriated from the Minnesota arts and cultural heritage fund may be designated to make grants to noncommercial radio stations, as defined in

section 129D.14, subdivision 2. Grants received under this section must be used to create, produce, acquire, or distribute programs that educate, enhance, or promote local, regional, or statewide items of artistic, cultural, or historic significance. Grant funds may be used to cover any expenses associated with the creation, production, acquisition, or distribution of noncommercial radio programs through broadcast.

Subd. 2. **Administration.** Money appropriated under this section must be used by the commissioner of administration to make grants based upon the recommendations of the Association of Minnesota Public Educational Radio Stations.

Subd. 3. **Conditions.** (a) A noncommercial radio station receiving funds appropriated under this section must:

(1) make programs produced with these funds available for broadcast to all other noncommercial radio stations eligible to receive grants under this section;

(2) offer free public performance rights for public educational institutions;

(3) archive programs produced with these funds and make the programs available for future use through encore broadcast or other distribution, including online; and

(4) ensure that underwriting credit is given to the Minnesota arts and cultural heritage fund.

(b) Programs produced in partnership with other mission-centered nonprofit organizations may be used by the partnering organization for their own educational or promotional purposes.

Subd. 4. **Reporting.** A noncommercial radio station receiving funds appropriated under this section must report annually by January 15 to the commissioner and the chairs and ranking minority members of the senate and house of representatives committees and divisions having jurisdiction over arts and cultural heritage policy and budget regarding how the previous year's grant funds were expended. This report must contain specific information for each program produced and broadcast, including the cost of production, the number of stations broadcasting the program, estimated number of listeners, and other related measures. If the programs produced include educational material, the noncommercial radio station must report to the commissioner on these efforts.

#### Sec. 15. [129E.01] ARTS AND CULTURAL HERITAGE FUND.

Subdivision 1. **Fund established.** The arts and cultural heritage fund is established in the Minnesota Constitution, article XI, section 15. All money earned by the fund must be credited to the fund.

Subd. 2. **Appropriations.** Money in the arts and cultural heritage fund is appropriated annually as follows:

(1) 50 percent to the executive director of the Board of the Arts for grants and services provided in accordance with law; and

(2) at least 25 percent to the director of the Minnesota Historical Society for grants and distribution in accordance with law.

Subd. 3. **Acknowledgment.** A recipient of money from the arts and cultural heritage fund must include credit in printed materials, media releases, advertisements, and electronic, audio, or video

promotional materials acknowledging that the activities and projects are the results of the legacy amendment to the Minnesota Constitution adopted by the voters on November 4, 2008.

**Sec. 16. VOLUNTEER WORKING GROUP ON DAKOTA AND OJIBWE LANGUAGE REVITALIZATION AND PRESERVATION.**

Subdivision 1. **Establishment.** A volunteer working group is established to develop a unified strategy to revitalize and preserve indigenous languages of the 11 federally recognized American Indian tribes in Minnesota. As the federal government recognized through passage of the Esther Martinez Native American Languages Preservation Act of 2006, the revitalization and preservation of American Indian languages is of vital importance to preserving the American Indian culture. There have been recent efforts in Minnesota to develop programs to teach the Dakota and Ojibwe languages to students and to create fluent speakers at both the kindergarten through grade 12 level and at the postsecondary level. The volunteer working group shall, among other duties, inventory these efforts and make recommendations regarding how to further revitalize and preserve Dakota and Ojibwe languages.

Subd. 2. **Membership.** The executive director of the Minnesota Indian Affairs Council shall invite each of the 11 federally recognized tribes under Minnesota Statutes, section 3.922, subdivision 1, clause (1), to participate by appointing one member of each tribe to the working group. Three additional members shall be appointed by the Indian Affairs Council. Two of these members must represent the American Indian population in the Minneapolis-St. Paul area and one member must represent the American Indian population in Duluth. Other working group members may include, at their discretion, the commissioner of education or the commissioner's appointee, the director of the Office of Higher Education or the director's appointee, one member of the Board of Teaching, and the director of the Minnesota Historical Society or the director's appointee. The working group may add other members as deemed appropriate by a majority vote of the existing members. The executive director of the Indian Affairs Council must convene the first meeting no later than September 1, 2009. At the first meeting, the members shall elect from amongst themselves a chair and vice chair of the working group.

Subd. 3. **Duties.** The working group must develop strategies for the 11 federally recognized American Indian tribes and the state to work together to revitalize and preserve the Dakota and Ojibwe languages in Minnesota. The duties of the working group include, but are not limited to:

(1) creating an inventory of existing programs designed to preserve Dakota and Ojibwe languages in the state, including postsecondary programs, programs in tribal schools, and other schools throughout the state;

(2) creating an inventory of available resources for Dakota and Ojibwe language revitalization and immersion programs, including curriculum, educational materials, and trained teachers;

(3) identifying curriculum needs to train teachers to teach the Dakota and Ojibwe languages in immersion programs and barriers to training teachers to teach the Dakota and Ojibwe language;

(4) identifying classroom curriculum needs for teaching students in Dakota and Ojibwe languages;

(5) determining how the identified curriculum needs should be met;

(6) determining if there is a need for a central repository of resources, and if there is a need, where

the repository should be located, how it should be structured, and who should have responsibility for maintaining the repository;

(7) determining what technical assistance the state could offer to further Dakota and Ojibwe language immersion programs;

(8) identifying private, state, and national financial resources available to further Dakota and Ojibwe language revitalization and preservation efforts;

(9) identifying current state and federal law, rules, regulations, and policy that should be repealed, modified, or waived, in order to further Dakota and Ojibwe language immersion programs; and

(10) assessing the level of interest in the community for Dakota and Ojibwe language immersion programs.

Subd. 4. **Expenses.** Members of the group are not eligible for compensation but may receive reimbursement for their expenses as provided in Minnesota Statutes, section 15.059, subdivision 3.

Subd. 5. **Report.** The working group must report its findings and recommendations, including draft legislation, if necessary, to the Indian Affairs Council and the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over early childhood through grade 12 education and higher education by February 15, 2011. The committee expires on February 16, 2011.

Sec. 17. **REPEALER.**

Minnesota Statutes 2008, section 129D.17, is repealed.

## **ARTICLE 5**

### **GENERAL PROVISIONS**

#### **Section 1. LEGACY WEB SITE**

(a) The Legislative Coordinating Commission shall establish and maintain a Web site to provide information on all projects receiving appropriations in this article. The commission may provide a link to a state Web site that contains all of the necessary information on projects to satisfy this requirement. The Web site must provide information for each project, including, but not limited to:

(1) the name of the project;

(2) a brief description of the project;

(3) the amount of money appropriated in this article for the project;

(4) any nonstate sources of funding specified for the project; and

(5) goals and outcomes of the project.

(b) As a condition of accepting an appropriation in this article, any agency or entity receiving an appropriation must provide the information to the Legislative Coordinating Commission that is necessary to establish and maintain the Web site under paragraph (a). The provision of the necessary information required for the Web site under paragraph (a) to another state entity that is linked to the commission's Web site shall be considered meeting this requirement.

(c) \$50,000 in fiscal year 2010 is appropriated to the Legislative Coordinating Commission for the costs of developing and implementing a Web site to contain information on projects receiving appropriations from the outdoor heritage fund, the clean water fund, and the parks and trails fund. Of this amount, \$10,000 is from the outdoor heritage fund; \$25,000 is from the clean water fund; and \$15,000 is from the parks and trails fund.

## Sec. 2. **SIGNS**

(a) The Legislative Coordinating Commission shall sponsor a contest for selecting the design of a logo to use on signage for projects receiving money from the outdoor heritage fund, the clean water fund, and the parks and trails fund.

(b) As a condition of accepting an appropriation in this article, any agency or entity receiving an appropriation must provide a sign with the logo selected under paragraph (a) at all access points to any land or water resources that were:

(1) acquired, in fee title or an interest in less than fee title, with money appropriated in this article; or

(2) restored, protected, or enhanced with money appropriated in this article.

**Sec. 3. 25-YEAR STRATEGIC PLAN.**

By January 15, 2011, the legislative committees, divisions, or councils responsible for recommending expenditures to the full legislature from the outdoor heritage fund, the clean water fund, and the parks and trails fund must develop, with broad public input, and adopt a 25-year strategic plan for the expenditures that will be recommended from the funds. The plan must include applicable outcomes for restoring, protecting, and enhancing wetlands, prairies, forests, habitat for fish and game, lakes, rivers, streams, groundwater, and supporting parks and trails. The strategic plan shall be updated on a regular basis, but no longer than every five years. The Web site established under section 1 must include a link to the plans developed under this section. The plan for restoring, protecting, and enhancing wetlands, prairies, forests, habitat for fish and game must be based on ecological sections and subsections established by the Department of Natural Resources and be based on sound science and achieve benefits across all ecological sections within the state. The plan for restoring, protecting, and enhancing lakes, rivers, streams, and groundwater must be based on watersheds and aquifers, and shall take into account existing plans, be based on sound science, and achieve benefits across all ecological sections within the state. Any recommendations for appropriations may be prioritized based on science and urgency."

Delete the title and insert:

"A bill for an act relating to state government; appropriating money from dedicated funds for natural resource and arts and cultural heritage purposes; modifying administration of the Lessard Outdoor Heritage Council; modifying provisions relating to the Mississippi River Critical Area; providing for the allocation of certain funding for metropolitan area parks and trails; creating a regional park and trail grant program; providing funding for a statewide 25-year park and trail framework; providing for a legacy Web site, signs, and a 25-year strategic plan; establishing a Dakota and Ojibwe language revitalization and preservation volunteer working group; amending Minnesota Statutes 2008, sections 85.53; 97A.056, subdivisions 2, 7; 116G.15; proposing coding

for new law in Minnesota Statutes, chapter 85."

The motion prevailed. So the amendment was adopted.

H.F. No. 1231 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 67 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Erickson Ropes	Koering	Olson, M.	Sheran
Bakk	Fischbach	Kubly	Ortman	Sieben
Berglin	Fobbe	Langseth	Pappas	Skoe
Betzold	Foley	Latz	Pariseau	Skogen
Bonoff	Frederickson	Limmer	Pogemiller	Sparks
Carlson	Gerlach	Lourey	Prettner Solon	Stumpf
Chaudhary	Gimse	Lynch	Rest	Tomassoni
Clark	Hann	Marty	Robling	Torres Ray
Cohen	Higgins	Metzen	Rosen	Vanderveer
Dahle	Ingebrigtsen	Michel	Rummel	Vickerman
Day	Johnson	Moua	Saltzman	Wiger
Dibble	Jungbauer	Murphy	Saxhaug	
Dille	Kelash	Olseen	Scheid	
Doll	Koch	Olson, G.	Senjem	

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

### **MOTIONS AND RESOLUTIONS - CONTINUED**

Senator Rummel moved that S.F. No. 1651, No. 10 on the Calendar, be stricken and laid on the table. The motion prevailed.

### **RECESS**

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

### **CALL OF THE SENATE**

Senator Pogemiller imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

### **MOTIONS AND RESOLUTIONS - CONTINUED**

S.F. No. 802 and the Conference Committee Report thereon were reported to the Senate.

### **CONFERENCE COMMITTEE REPORT ON S.F. NO. 802**

A bill for an act relating to public safety; appropriating money for public safety, corrections, and other criminal justice agencies; requiring annual appropriation of money in Bureau of Criminal

Apprehension account to commissioner of public safety; repealing the mandatory minimum sentences for predatory offender registration offenses and subsequent controlled substances offenses; providing a 90-day cap on incarceration for certain first-time supervised release violations; eliminating the requirement that judges impose a minimum sentence on felony DWI offenders; requesting the Sentencing Guidelines Commission to rerank the felony DWI offense; providing for supervised release of offenders; expanding the challenge incarceration program; requiring the Sentencing Guidelines Commission and the Departments of Corrections and Public Safety to review its reports; requiring Department of Corrections to annually report on felony DWI offenders; requiring that reports to the legislature by criminal justice agencies be submitted electronically; modifying and expanding the conditional release program for nonviolent drug offenders; including an advisory board for consultation with the commissioner of corrections for the conditional release program; repealing the conditional release program's sunset; authorizing correctional facilities to forward surcharges from offender wages to court or other entity collecting the surcharge; repealing reports on out-of-state juvenile placement; implementing the legislative auditor's recommendations relating to MINNCOR; requiring the licensure of firefighters; expanding the stay of adjudication provision for low-level controlled substance offenders; imposing criminal penalties; appropriating money; amending Minnesota Statutes 2008, sections 3.195, subdivision 1, by adding a subdivision; 152.021, subdivision 3; 152.022, subdivision 3; 152.023, subdivision 3; 152.024, subdivision 3; 152.025, subdivision 3; 152.18, subdivision 1; 169A.275, subdivisions 3, 4, 5; 169A.276, subdivisions 1, 2; 171.29, subdivision 2; 241.27, subdivision 1a, by adding subdivisions; 243.166, subdivision 5; 244.055, subdivisions 2, 3, 5, 7, by adding subdivisions; 244.17; 244.172, subdivision 1; 299N.02, subdivision 3; 357.021, subdivision 6; proposing coding for new law in Minnesota Statutes, chapters 244; 299N; repealing Minnesota Statutes 2008, sections 152.026; 244.055, subdivisions 6, 11; 260B.199, subdivision 2; 260B.201, subdivision 3; 325E.22.

May 11, 2009

The Honorable James P. Metzen  
President of the Senate

The Honorable Margaret Anderson Kelliher  
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 802 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 802 be further amended as follows:

Delete everything after the enacting clause and insert:

**"ARTICLE 1**

**APPROPRIATIONS**

Section 1. **SUMMARY OF APPROPRIATIONS.**

The amounts shown in this section summarize direct appropriations, by fund, made in this article.

**2010**

**2011**

**Total**



51ST DAY]

MONDAY, MAY 11, 2009

4547

<u>General</u>	\$	<u>886,898,000</u>	\$	<u>927,148,000</u>	\$	<u>1,814,046,000</u>
<u>Federal</u>		<u>38,000,000</u>		<u>0</u>		<u>38,000,000</u>
<u>State Government Special Revenue</u>		<u>66,573,000</u>		<u>70,336,000</u>		<u>136,909,000</u>
<u>Environmental</u>		<u>69,000</u>		<u>69,000</u>		<u>138,000</u>
<u>Special Revenue</u>		<u>14,534,000</u>		<u>14,534,000</u>		<u>29,068,000</u>
<u>Trunk Highway</u>		<u>1,941,000</u>		<u>1,941,000</u>		<u>3,882,000</u>
<b><u>Total</u></b>	<b>\$</b>	<b><u>1,008,015,000</u></b>	<b>\$</b>	<b><u>1,014,028,000</u></b>	<b>\$</b>	<b><u>2,022,043,000</u></b>

Sec. 2. **PUBLIC SAFETY APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. "The first year" is fiscal year 2010. "The second year" is fiscal year 2011. "The biennium" is fiscal years 2010 and 2011. Appropriations for the fiscal year ending June 30, 2009, are effective the day following final enactment.

**APPROPRIATIONS**  
**Available for the Year**  
**Ending June 30**  
**2010**                      **2011**

Sec. 3. **SUPREME COURT**

Subdivision 1. **Total Appropriation**                      \$              **43,476,000** \$              **43,475,000**

The amounts that may be spent for each purpose are specified in the following subdivisions.

Subd. 2. **Supreme Court Operations**                      31,376,000                      31,375,000

(a) **Contingent Account.** \$5,000 each year is for a contingent account for expenses necessary for the normal operation of the court for which no other reimbursement is provided.

(b) **Criminal Justice Forum.** The chief justice is requested to continue the criminal justice forum to evaluate and examine criminal justice efficiencies and costs savings,

and may submit a report of the findings and recommendations to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over public safety policy and finance by February 15, 2010.

(c) **Civil Justice Forum.** The chief justice is requested to convene a civil justice forum to evaluate and examine civil justice efficiencies and cost savings and may submit a report of the findings and recommendations to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over public safety policy and finance by February 15, 2010.

(d) **Federal Stimulus Funds.** The Supreme Court is encouraged to apply for all available grants for federal stimulus funds to: (1) continue drug court programs that lose state funding; and (2) make technological improvements within the judicial system.

(e) **Judicial and Referee Vacancies.** The Supreme Court shall not certify a judicial or referee vacancy under Minnesota Statutes, section 2.722, until it has examined alternative options, such as temporarily suspending certification of the vacant position or assigning a retired judge to temporarily fill the position.

Subd. 3. **Civil Legal Services**

12,100,000

12,100,000

**Legal Services to Low-Income Clients in Family Law Matters.** Of this appropriation, \$877,000 each year is to improve the access of low-income clients to legal representation in family law matters. This appropriation must be distributed under Minnesota Statutes, section 480.242, to the qualified legal services programs described in Minnesota Statutes, section 480.242, subdivision 2, paragraph (a). Any unencumbered balance remaining in the first year does not cancel and is available in the second year.

Sec. 4. <u>COURT OF APPEALS</u>	\$	<u>10,285,000</u>	\$	<u>10,285,000</u>
Sec. 5. <u>TRIAL COURTS</u>	\$	<u>250,116,000</u>	\$	<u>250,116,000</u>
Sec. 6. <u>TAX COURT</u>	\$	<u>818,000</u>	\$	<u>818,000</u>
Sec. 7. <u>UNIFORM LAWS COMMISSION</u>	\$	<u>51,000</u>	\$	<u>51,000</u>
Sec. 8. <u>BOARD ON JUDICIAL STANDARDS</u>	\$	<u>456,000</u>	\$	<u>456,000</u>

\$125,000 each year is for special investigative and hearing costs for major disciplinary actions undertaken by the board. This appropriation does not cancel. Any encumbered and unspent balances remain available for these expenditures in subsequent fiscal years.

Sec. 9. <u>BOARD OF PUBLIC DEFENSE</u>	\$	<u>66,028,000</u>	\$	<u>66,028,000</u>
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Sec. 10. PUBLIC SAFETY

Subdivision 1. <u>Total Appropriation</u>	\$	<u>158,678,000</u>	\$	<u>162,441,000</u>
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Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>80,463,000</u>	<u>80,463,000</u>
<u>Special Revenue</u>	<u>9,632,000</u>	<u>9,632,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>66,573,000</u>	<u>70,336,000</u>
<u>Environmental</u>	<u>69,000</u>	<u>69,000</u>
<u>Trunk Highway</u>	<u>1,941,000</u>	<u>1,941,000</u>

The amounts that may be spent for each purpose are specified in the following subdivisions.

(a) Car Fleet. By January 1, 2010, the commissioner shall reduce the department's fleet of cars that are not used for investigations by at least five percent when compared to the fleet's status on January 1, 2009. This paragraph shall not apply to State Patrol vehicles purchased or maintained using trunk highway funds.

**(b) Prohibition on Use of Appropriation.** No portion of this appropriation may be used for the purchase of motor vehicles or out-of-state travel that is not directly connected with and necessary to carry out the core functions of the department.

**Subd. 2. Emergency Management** 2,583,000                      2,583,000

Appropriations by Fund

<u>General</u>	<u>1,910,000</u>	<u>1,910,000</u>
<u>Special Revenue</u>	604,000	<u>604,000</u>
<u>Environmental</u>	69,000	<u>69,000</u>

**Hazmat and Chemical Assessment Teams.** \$604,000 each year is appropriated from the fire safety account in the special revenue fund. These amounts must be used to fund the hazardous materials and chemical assessment teams.

**Subd. 3. Criminal Apprehension** 43,368,000                      43,368,000

Appropriations by Fund

<u>General</u>	<u>41,420,000</u>	<u>41,420,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	7,000	<u>7,000</u>
<u>Trunk Highway</u>	<u>1,941,000</u>	<u>1,941,000</u>

**DWI Lab Analysis; Trunk Highway Fund.** Notwithstanding Minnesota Statutes, section 161.20, subdivision 3, \$1,941,000 each year is appropriated from the trunk highway fund for laboratory analysis related to driving while impaired cases.

**Subd. 4. Fire Marshal** 8,125,000                      8,125,000

This appropriation is from the fire safety account in the special revenue fund.

Of this amount, \$5,857,000 each year is for activities under Minnesota Statutes, section 299F.012, and \$2,268,000 each year is for transfer to the general fund under Minnesota Statutes, section 297I.06, subdivision 3.

<u>Subd. 5. Alcohol and Gambling Enforcement</u>	<u>2,538,000</u>	<u>2,538,000</u>
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Appropriations by Fund

<u>General</u>	<u>1,635,000</u>	<u>1,635,000</u>
<u>Special Revenue</u>	<u>903,000</u>	<u>903,000</u>

This appropriation is from the alcohol enforcement account in the special revenue fund. Of this appropriation, \$750,000 each year shall be transferred to the general fund. The transfer amount for fiscal year 2012 and fiscal year 2013 shall be \$500,000 per year.

<u>Subd. 6. Office of Justice Programs</u>	<u>35,594,000</u>	<u>35,594,000</u>
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Appropriations by Fund

<u>General</u>	<u>35,498,000</u>	<u>35,498,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>96,000</u>	<u>96,000</u>

(a) Federal Stimulus Money. The Office of Justice programs shall give priority to awarding grants for federal stimulus money to the following activities and programs:

(1) organizations that provide mentoring grants for children of incarcerated parents;

(2) youth intervention programs, as defined under Minnesota Statutes, section 299A.73, with an emphasis on those programs that provide early intervention youth services to children in their communities;

(3) re-entry programs for offenders, with a priority on continuing to fund the nonprofit organization selected to administer the demonstration project for high risk adults under Laws 2007, chapter 54, article 1, section 19;

(4) trafficking victim programs, including legal advocacy clinics, training programs, public awareness initiatives, and victim services hotlines;

(5) nonprofit organizations dedicated

to providing immediate and long-term emotional support and practical help for families and friends of persons who have died traumatically;

(6) programs that seek to develop and increase juvenile detention alternatives;

(7) restorative justice programs, as defined in Minnesota Statutes, section 611A.775, except that a program that receives federal funds shall not use the funds for cases involving domestic assault; and

(8) judicial branch efficiency programs, including e-citation and fine management and collection program improvements.

For purposes of this subdivision, "federal stimulus money" means money provided to the state under the American Recovery and Reinvestment Act of 2009.

**(b) Crime Victim and Youth Intervention Programs.** For the biennium ending June 30, 2011, funding for the following programs must not be reduced by more than three percent from the level of state base funding provided for the biennium ending June 30, 2009: (1) crime victim reparations; (2) battered women's shelters and domestic violence programs; (3) general crime victim programs; (4) sexual assault victim programs; and (5) youth intervention programs.

**(c) Administration Costs.** Up to 2.5 percent of the grant money appropriated in this subdivision may be used to administer the grant program.

**Subd. 7. Emergency Communication Networks**

66,470,000

70,233,000

This appropriation is from the state government special revenue fund for 911 emergency telecommunications services.

**(a) Public Safety Answering Points.** \$13,664,000 each year is to be distributed as provided in Minnesota Statutes, section 403.113, subdivision 2.

**(b) Medical Resource Communication Centers.** \$683,000 each year is for grants to the Minnesota Emergency Medical Services Regulatory Board for the Metro East and Metro West Medical Resource Communication Centers that were in operation before January 1, 2000.

**(c) ARMER Debt Service.** \$17,557,000 the first year and \$23,261,000 the second year are to the commissioner of finance to pay debt service on revenue bonds issued under Minnesota Statutes, section 403.275.

Any portion of this appropriation not needed to pay debt service in a fiscal year may be used by the commissioner of public safety to pay cash for any of the capital improvements for which bond proceeds were appropriated by Laws 2005, chapter 136, article 1, section 9, subdivision 8, or Laws 2007, chapter 54, article 1, section 10, subdivision 8.

**(d) Metropolitan Council Debt Service.** \$1,410,000 each year is to the commissioner of finance for payment to the Metropolitan Council for debt service on bonds issued under Minnesota Statutes, section 403.27.

**(e) ARMER State Backbone Operating Costs.** \$5,060,000 each year is to the commissioner of transportation for costs of maintaining and operating the statewide radio system backbone.

**(f) ARMER Improvements.** \$1,000,000 each year is for the Statewide Radio Board for costs of design, construction, maintenance of, and improvements to those elements of the statewide public safety radio and communication system that support mutual aid communications and emergency medical services or provide enhancement of public safety communication interoperability.

**(g) Next Generation 911.** \$3,431,000 the first year and \$6,490,000 the second year are to replace the current system with the Next Generation Internet Protocol (IP) based

network. The base level of funding for fiscal year 2012 shall be \$2,965,000.

(h) **Grants to Local Government.** \$5,000,000 the first year is for grants to local units of government to assist with the transition to the ARMER system. This appropriation is available until June 30, 2012.

**Sec. 11. PEACE OFFICER STANDARDS AND TRAINING BOARD (POST)**

\$                      4,012,000 \$                      4,012,000

(a) **Excess Amounts Transferred.** This appropriation is from the peace officer training account in the special revenue fund. Any new receipts credited to that account in the first year in excess of \$4,012,000 must be transferred and credited to the general fund. Any new receipts credited to that account in the second year in excess of \$4,012,000 must be transferred and credited to the general fund.

(b) **Peace Officer Training Reimbursements.** \$2,859,000 each year is for reimbursements to local governments for peace officer training costs.

(c) **Prohibition on Use of Appropriation.** No portion of this appropriation may be used for the purchase of motor vehicles or out-of-state travel that is not directly connected with and necessary to carry out the core functions of the board.

**Sec. 12. PRIVATE DETECTIVE BOARD**

\$                      123,000 \$                      123,000

**Prohibition on Use of Appropriation.** No portion of this appropriation may be used for the purchase of motor vehicles or out-of-state travel that is not directly connected with and necessary to carry out the core functions of the board.

**Sec. 13. HUMAN RIGHTS**

\$                      3,524,000 \$                      3,524,000

**Prohibition on Use of Appropriation.** No portion of this appropriation may be used for the purchase of motor vehicles or out-of-state





submit an electronic report to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over public safety policy and finance concerning alternative chemical dependency treatment opportunities. The report must identify alternatives that represent best practices in chemical dependency treatment of offenders. The report must contain suggestions for reducing the length of time between offender commitment to the custody of the commissioner and graduation from chemical dependency treatment. To the extent possible, the report shall identify options that will (1) reduce the cost of treatment; (2) expand the number of treatment beds; (3) improve treatment outcomes; and (4) lower the rate of substance abuse relapse and criminal recidivism.

**(b) Challenge Incarceration; Maximum Occupancy.** The commissioner shall work to fill all available challenge incarceration beds for both male and female offenders. If the commissioner fails to fill at least 90 percent of the available challenge incarceration beds by December 1, 2009, the commissioner must submit a report to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over public safety policy and finance by January 15, 2010, explaining what steps the commissioner has taken to fill the beds and why those steps failed to reach the goal established by the legislature.

**(c) Institutional Efficiencies.** The commissioner shall strive for institutional efficiencies and must reduce the fiscal year 2008 average adult facility per diem of \$89.77 by one percent. The base is cut by \$2,850,000 in the first year and \$2,850,000 in the second year to reflect a one percent reduction in the projected adult facility per diem. In reducing the projected adult facility per diem, the commissioner must consider the following:

(1) cooperating with the state of Wisconsin to obtain economies of scale;

(2) increasing the bed capacity of the challenge incarceration program;

(3) increasing the number of nonviolent drug offenders who are granted conditional release under Minnesota Statutes, section 244.055;

(4) increasing the use of compassionate release or less costly detention alternatives for elderly and infirm offenders;

(5) discontinuing the department's practice of annually assigning a warden to serve as a legislative liaison during the legislative session;

(6) consolidating staff from correctional institutions in geographical proximity to each other to achieve efficiencies and cost savings, including wardens, deputy wardens, and human resources, technology, and employee development personnel;

(7) consolidating the department's human resources, technology, and employee development functions in a centralized location;

(8) implementing corrections best practices; and

(9) implementing cost-saving measures used by other states and the federal government.

The commissioner must not eliminate correctional officer positions or implement any other measure that will jeopardize public safety to achieve the mandated cost savings. The commissioner also must not eliminate treatment beds to achieve the mandated cost savings.

(d) **Per Diem Reduction.** If the commissioner fails to reduce the per diem by one percent, the commissioner must:

(1) reduce the funding for operations support by the amount of unrealized savings; and

(2) submit a report by February 15, 2010, to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over public safety policy and finance that contains descriptions of what efforts the commissioner made to reduce the per diem, explanations for why those steps failed to reduce the per diem by one percent, proposed legislative options that would assist the commissioner in reducing the adult facility per diem, and descriptions of the specific actions the commissioner took to reduce funding in operations support.

If the commissioner reduces the per diem by more than one percent, the commissioner must use the savings to provide treatment to offenders.

(e) **Reductions to Certain Programming Prohibited.** When allocating reductions in services and programming under this appropriation, the commissioner may not make reductions to inmate educational programs, chemical dependency programs, or reentry programs.

(f) **Drug Court Bed Savings.** The commissioner must consider the bed impact savings of drug courts in formulating its prison bed projections.

(g) **Transfer.** Notwithstanding Minnesota Statutes, section 241.27, the commissioner of finance shall transfer \$1,000,000 the first year and \$1,000,000 the second year from the Minnesota Correctional Industries revolving fund to the general fund.

<u>Subd. 3. <b>Community Services</b></u>	<u>114,144,000</u>	<u>112,537,000</u>
	<u>Appropriations by Fund</u>	
<u>General</u>	<u>114,044,000</u>	<u>112,437,000</u>
<u>Special Revenue</u>	<u>100,000</u>	<u>100,000</u>

**Short-Term Offenders.** \$1,607,000 the first year is for costs associated with the housing

and care of short-term offenders sentenced prior to June 30, 2009, and housed in local jails. The commissioner may use up to ten percent of the total amount of the appropriation for inpatient medical care for short-term offenders with less than six months to serve as affected by the changes made to Minnesota Statutes, section 609.105, by Laws 2003, First Special Session chapter 2, article 5, sections 7 to 9. All funds not expended for inpatient medical care shall be added to and distributed with the housing funds. These funds shall be distributed proportionately based on the total number of days short-term offenders are placed locally, not to exceed the fiscal year 2009 per diem. All funds remaining after reimbursements are made shall be transferred to the department's institution base budget to offset the costs of housing short-term offenders who are sentenced on or after July 1, 2009, and incarcerated in state correctional facilities. Short-term offenders sentenced before July 1, 2009, may be housed in a state correctional facility at the discretion of the commissioner.

This does not preclude the commissioner from contracting with local jails to house offenders committed to the custody of the commissioner.

The Department of Corrections is exempt from the state contracting process for the purposes of Minnesota Statutes, section 609.105, as amended by Laws 2003, First Special Session chapter 2, article 5, sections 7 to 9.

<b>Subd. 4. Operations Support</b>		<u>21,359,000</u>	<u>21,359,000</u>
	<u>Appropriations by Fund</u>		
General	21,149,000	<u>21,149,000</u>	
Special Revenue	210,000	<u>210,000</u>	
<b>Sec. 15. SENTENCING GUIDELINES</b>		<b>\$ 604,000</b>	<b>\$ 604,000</b>

Prohibition on Use of Appropriation. No

portion of this appropriation may be used for the purchase of motor vehicles or out-of-state travel that is not directly connected with and necessary to carry out the core functions of the commission.

## ARTICLE 2

### COURTS AND PUBLIC DEFENDERS

Section 1. Minnesota Statutes 2008, section 2.722, subdivision 4, is amended to read:

Subd. 4. **Determination of a judicial vacancy.** (a) When a judge of the district court dies, resigns, retires, or is removed from office, the Supreme Court, in consultation with judges and attorneys in the affected district, shall determine ~~within 90 days of~~ after receiving notice of a vacancy from the governor whether the vacant office is necessary for effective judicial administration or is necessary for adequate access to the courts. In determining whether the position is necessary for adequate access to the courts, the Supreme Court shall consider whether abolition or transfer of the position would result in a county having no chambered judge. The Supreme Court may continue the position, may order the position abolished, or may transfer the position to a judicial district where need for additional judges exists, designating the position as either a county, county/municipal or district court judgeship. The Supreme Court shall certify any vacancy to the governor, who shall fill it in the manner provided by law.

(b) If a judge of district court fails to timely file an affidavit of candidacy and filing fee or petition in lieu of a fee, the official with whom the affidavits of candidacy are required to be filed shall notify the Supreme Court that the incumbent judge is not seeking reelection. Within five days of receipt of the notice, the Supreme Court shall determine whether the judicial position is necessary for effective judicial administration or adequate access to the courts and notify the official responsible for certifying the election results of its determination. In determining whether the position is necessary for adequate access to the courts, the Supreme Court shall consider whether abolition or transfer of the position would result in a county having no chambered judge. The Supreme Court may continue the position, may order the position abolished, or may transfer the position to a judicial district where the need for additional judgeships exists. If the position is abolished or transferred, the election may not be held. If the position is transferred, the court shall also notify the governor of the transfer. Upon transfer, the position is vacant and the governor shall fill it in the manner provided by law. An order abolishing or transferring a position is effective the first Monday in the next January.

Sec. 2. Minnesota Statutes 2008, section 2.722, subdivision 4a, is amended to read:

Subd. 4a. **Referee vacancy; conversion to judgeship.** When a referee of the district court dies, resigns, retires, or is voluntarily removed from the position, the chief judge of the district shall notify the Supreme Court and may petition to request that the position be converted to a judgeship. The Supreme Court shall determine ~~within 90 days of the petition~~ whether to order the position abolished or convert the position to a judgeship in the affected or another judicial district. The Supreme Court shall certify any judicial vacancy to the governor, who shall fill it in the manner provided by law. The conversion of a referee position to a judgeship under this subdivision shall not reduce the total number of judges and referees hearing cases in the family and juvenile courts.

Sec. 3. Minnesota Statutes 2008, section 2.724, subdivision 2, is amended to read:

Subd. 2. **Procedure.** To promote and secure more efficient administration of justice, the chief justice of the Supreme Court of the state shall supervise and coordinate the work of the courts of the state. The Supreme Court may provide by rule that the chief justice not be required to write opinions as a member of the Supreme Court. Its rules may further provide for it to hear and consider cases in divisions. It may by rule assign temporarily any retired justice of the Supreme Court or one judge of the Court of Appeals or district court judge at a time to act as a justice of the Supreme Court or any number of justices or retired justices of the Supreme Court to act as judges of the Court of Appeals. Upon the assignment of a Court of Appeals judge or a district court judge to act as a justice of the Supreme Court, a judge previously acting as a justice may complete unfinished duties of that position. Any number of justices may disqualify themselves from hearing and considering a case, in which event the Supreme Court may assign temporarily a retired justice of the Supreme Court, a Court of Appeals judge, or a district court judge to hear and consider the case in place of each disqualified justice. ~~A retired justice who is acting as a justice of the Supreme Court or judge of the Court of Appeals under this section shall receive, in addition to retirement pay, out of the general fund of the state, an amount to make the retired justice's total compensation equal to the same salary as a justice or judge of the court on which the justice is acting.~~

Sec. 4. Minnesota Statutes 2008, section 2.724, subdivision 3, is amended to read:

Subd. 3. **Retired justices and judges.** (a) The chief justice of the Supreme Court may assign a retired justice of the Supreme Court to act as a justice of the Supreme Court pursuant to subdivision 2 or as a judge of any other court. The chief justice may assign a retired judge of any court to act as a judge of any court except the Supreme Court. The chief justice of the Supreme Court shall determine the pay and expenses to be received by a justice or judge acting pursuant to this paragraph.

(b) A judge who has been elected to office and who has retired as a judge in good standing and is not practicing law may also be appointed to serve as judge of any court except the Supreme Court. A retired judge acting under this paragraph will receive pay and expenses in the amount established by the Supreme Court.

Sec. 5. Minnesota Statutes 2008, section 86B.705, subdivision 2, is amended to read:

Subd. 2. **Fines and bail money.** (a) All fines, installment payments, and forfeited bail money collected from persons convicted of violations of this chapter or rules adopted thereunder, or of a violation of section 169A.20 involving a motorboat, shall be ~~paid to the county treasurer of the county where the violation occurred by the court administrator or other person collecting the money within 15 days after the last day of the month the money was collected~~ deposited in the state treasury.

(b) One-half of the receipts shall be credited to the general revenue fund ~~of the county.~~ The other one-half of the receipts shall be transmitted ~~by the county treasurer~~ to the commissioner of natural resources ~~to be deposited in the state treasury~~ and credited to the water recreation account for the purpose of boat and water safety.

Sec. 6. Minnesota Statutes 2008, section 134A.09, subdivision 2a, is amended to read:

Subd. 2a. **Petty misdemeanor cases and criminal convictions; fee assessment.** In Hennepin County and Ramsey County, the district court administrator or a designee may, upon the recommendation of the board of trustees and by standing order of the judges of the district court,

include in the costs or disbursements assessed against a defendant convicted in the district court of the violation of a statute or municipal ordinance, a county law library fee. This fee may be collected in all petty misdemeanor cases and criminal prosecutions in which, upon conviction, the defendant may be subject to the payment of the costs or disbursements in addition to a fine or other penalty. When a defendant is convicted of more than one offense in a case, the county law library fee shall be imposed only once in that case.

Sec. 7. Minnesota Statutes 2008, section 134A.10, subdivision 3, is amended to read:

Subd. 3. **Petty misdemeanor cases and criminal convictions; fee assessment.** The judge of district court may, upon the recommendation of the board of trustees and by standing order, include in the costs or disbursements assessed against a defendant convicted in the district court of the violation of any statute or municipal ordinance, in all petty misdemeanor cases and criminal prosecutions in which, upon conviction, the defendant may be subject to the payment of the costs or disbursements in addition to a fine or other penalty a county law library fee. When a defendant is convicted of more than one offense in a case, the county law library fee shall be imposed only once in that case. The item of costs or disbursements may not be assessed for any offense committed prior to the establishment of the county law library.

Sec. 8. Minnesota Statutes 2008, section 152.0262, subdivision 1, is amended to read:

Subdivision 1. **Possession of precursors.** (a) A person is guilty of a crime if the person possesses any chemical reagents or precursors with the intent to manufacture methamphetamine and if convicted may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both.

(b) A person is guilty of a crime if the person possesses any chemical reagents or precursors with the intent to manufacture methamphetamine and may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than \$30,000, or both, if the conviction is for a subsequent controlled substance conviction.

As used in this section and section 152.021, "chemical reagents or precursors" includes any of the following substances, or any similar substances that can be used to manufacture methamphetamine, or the salts, isomers, and salts of isomers of a listed or similar substance:

- (1) ephedrine;
- (2) pseudoephedrine;
- (3) phenyl-2-propanone;
- (4) phenylacetone;
- (5) anhydrous ammonia;
- (6) organic solvents;
- (7) hydrochloric acid;
- (8) lithium metal;
- (9) sodium metal;



- (10) ether;
- (11) sulfuric acid;
- (12) red phosphorus;
- (13) iodine;
- (14) sodium hydroxide;
- (15) benzaldehyde;
- (16) benzyl methyl ketone;
- (17) benzyl cyanide;
- (18) nitroethane;
- (19) methylamine;
- (20) phenylacetic acid;
- (21) hydriodic acid; or
- (22) hydriotic acid.

**EFFECTIVE DATE.** This section is effective July 1, 2009, and applies to crimes committed on or after that date.

Sec. 9. Minnesota Statutes 2008, section 169A.20, subdivision 1, is amended to read:

Subdivision 1. **Driving while impaired crime; motor vehicle.** It is a crime for any person to drive, operate, or be in physical control of any motor vehicle, as defined in section 169A.03, subdivision 15, except for motorboats in operation and off-road recreational vehicles, within this state or on any boundary water of this state when:

- (1) ~~when~~ the person is under the influence of alcohol;
- (2) ~~when~~ the person is under the influence of a controlled substance;
- (3) ~~when~~ the person is knowingly under the influence of a hazardous substance that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to drive or operate the motor vehicle;
- (4) ~~when~~ the person is under the influence of a combination of any two or more of the elements named in clauses (1), ~~(2)~~, and to (3);
- (5) ~~when~~ the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the motor vehicle is 0.08 or more;
- (6) ~~when~~ the vehicle is a commercial motor vehicle and the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the commercial motor vehicle is 0.04 or more; or
- (7) ~~when~~ the person's body contains any amount of a controlled substance listed in schedule I or

II, or its metabolite, other than marijuana or tetrahydrocannabinols.

**EFFECTIVE DATE.** This section is effective July 1, 2009, and applies to crimes committed on or after that date.

Sec. 10. Minnesota Statutes 2008, section 169A.20, is amended by adding a subdivision to read:

Subd. 1a. **Driving while impaired crime; motorboat in operation.** It is a crime for any person to operate or be in physical control of a motorboat in operation on any waters or boundary water of this state when:

(1) the person is under the influence of alcohol;

(2) the person is under the influence of a controlled substance;

(3) the person is knowingly under the influence of a hazardous substance that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to drive or operate the motorboat;

(4) the person is under the influence of a combination of any two or more of the elements named in clauses (1) to (3);

(5) the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the motorboat is 0.08 or more; or

(6) the person's body contains any amount of a controlled substance listed in schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols.

**EFFECTIVE DATE.** This section is effective July 1, 2009, and applies to crimes committed on or after that date.

Sec. 11. Minnesota Statutes 2008, section 169A.20, is amended by adding a subdivision to read:

Subd. 1b. **Driving while impaired crime; snowmobile and all-terrain vehicle.** It is a crime for any person to operate or be in physical control of a snowmobile as defined in section 84.81, subdivision 3, or all-terrain vehicle as defined in section 84.92, subdivision 8, anywhere in this state or on the ice of any boundary water of this state when:

(1) the person is under the influence of alcohol;

(2) the person is under the influence of a controlled substance;

(3) the person is knowingly under the influence of a hazardous substance that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to drive or operate the snowmobile or all-terrain vehicle;

(4) the person is under the influence of a combination of any two or more of the elements named in clauses (1) to (3);

(5) the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the snowmobile or all-terrain vehicle is 0.08 or more; or

(6) the person's body contains any amount of a controlled substance listed in schedule I or II, or

its metabolite, other than marijuana or tetrahydrocannabinols.

**EFFECTIVE DATE.** This section is effective July 1, 2009, and applies to crimes committed on or after that date.

Sec. 12. Minnesota Statutes 2008, section 169A.20, is amended by adding a subdivision to read:

Subd. 1c. **Driving while impaired crime; off-highway motorcycle and off-road vehicle.** It is a crime for any person to operate or be in physical control of any off-highway motorcycle as defined in section 84.787, subdivision 7, or any off-road vehicle as defined in section 84.797, subdivision 7, anywhere in this state or on the ice of any boundary water of this state when:

(1) the person is under the influence of alcohol;

(2) the person is under the influence of a controlled substance;

(3) the person is knowingly under the influence of a hazardous substance that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to drive or operate the off-highway motorcycle or off-road vehicle;

(4) the person is under the influence of a combination of any two or more of the elements named in clauses (1) to (3);

(5) the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the off-highway motorcycle or off-road vehicle is 0.08 or more; or

(6) the person's body contains any amount of a controlled substance listed in schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols.

**EFFECTIVE DATE.** This section is effective July 1, 2009, and applies to crimes committed on or after that date.

Sec. 13. Minnesota Statutes 2008, section 169A.25, subdivision 1, is amended to read:

Subdivision 1. **Degree described.** (a) A person who violates section 169A.20, subdivision 1, 1a, 1b, or 1c (driving while impaired crime), is guilty of second-degree driving while impaired if two or more aggravating factors were present when the violation was committed.

(b) A person who violates section 169A.20, subdivision 2 (refusal to submit to chemical test crime), is guilty of second-degree driving while impaired if one aggravating factor was present when the violation was committed.

**EFFECTIVE DATE.** This section is effective July 1, 2009, and applies to crimes committed on or after that date.

Sec. 14. Minnesota Statutes 2008, section 169A.26, subdivision 1, is amended to read:

Subdivision 1. **Degree described.** (a) A person who violates section 169A.20, subdivision 1, 1a, 1b, or 1c (driving while impaired crime), is guilty of third-degree driving while impaired if one aggravating factor was present when the violation was committed.

(b) A person who violates section 169A.20, subdivision 2 (refusal to submit to chemical test

crime), is guilty of third-degree driving while impaired.

**EFFECTIVE DATE.** This section is effective July 1, 2009, and applies to crimes committed on or after that date.

Sec. 15. Minnesota Statutes 2008, section 169A.27, subdivision 1, is amended to read:

Subdivision 1. **Degree described.** A person who violates section 169A.20, subdivision 1, 1a, 1b, or 1c (driving while impaired crime), is guilty of fourth-degree driving while impaired.

**EFFECTIVE DATE.** This section is effective July 1, 2009, and applies to crimes committed on or after that date.

Sec. 16. Minnesota Statutes 2008, section 169A.28, subdivision 2, is amended to read:

Subd. 2. **Permissive consecutive sentences; multiple offenses.** (a) When a person is being sentenced for a violation of a provision listed in paragraph (e), the court may sentence the person to a consecutive term of imprisonment for a violation of any other provision listed in paragraph (e), notwithstanding the fact that the offenses arose out of the same course of conduct, subject to the limitation on consecutive sentences contained in section 609.15, subdivision 2, and except as provided in paragraphs (b) and (c).

(b) When a person is being sentenced for a violation of section 171.09 (violation of condition of restricted license), 171.20 (operation after revocation, suspension, cancellation, or disqualification), 171.24 (driving without valid license), or 171.30 (violation of condition of limited license), the court may not impose a consecutive sentence for another violation of a provision in chapter 171 (drivers' licenses and training schools).

(c) When a person is being sentenced for a violation of section 169.791 (failure to provide proof of insurance) or 169.797 (failure to provide vehicle insurance), the court may not impose a consecutive sentence for another violation of a provision of sections 169.79 to 169.7995.

(d) This subdivision does not limit the authority of the court to impose consecutive sentences for crimes arising on different dates or to impose a consecutive sentence when a person is being sentenced for a crime and is also in violation of the conditions of a stayed or otherwise deferred sentence under section 609.135 (stay of imposition or execution of sentence).

(e) This subdivision applies to misdemeanor and gross misdemeanor violations of the following if the offender has two or more prior impaired driving convictions within the past ten years:

(1) section 169A.20, subdivision 1, 1a, 1b, or 1c (driving while impaired; impaired driving offenses);

(2) section 169A.20, subdivision 2 (driving while impaired; test refusal offense);

(3) section 169.791;

(4) section 169.797;

(5) section 171.09 (violation of condition of restricted license);

(6) section 171.20, subdivision 2 (operation after revocation, suspension, cancellation, or disqualification);

(7) section 171.24; and

(8) section 171.30.

**EFFECTIVE DATE.** This section is effective July 1, 2009, and applies to crimes committed on or after that date.

Sec. 17. Minnesota Statutes 2008, section 169A.284, is amended to read:

**169A.284 CHEMICAL DEPENDENCY ASSESSMENT CHARGE; SURCHARGE.**

Subdivision 1. **When required.** (a) When a court sentences a person convicted of an offense enumerated in section 169A.70, subdivision 2 (chemical use assessment; requirement; form), it shall order the person to pay the cost of the assessment directly to the entity conducting the assessment or providing the assessment services in an amount determined by the entity conducting or providing the service and shall impose a chemical dependency assessment charge of \$125 \$25. The court may waive the \$25 assessment charge, but may not waive the cost for the assessment paid directly to the entity conducting the assessment or providing assessment services. A person shall pay an additional surcharge of \$5 if the person is convicted of a violation of section 169A.20 (driving while impaired) within five years of a prior impaired driving conviction or a prior conviction for an offense arising out of an arrest for a violation of section 169A.20 or Minnesota Statutes 1998, section 169.121 (driver under influence of alcohol or controlled substance) or 169.129 (aggravated DWI-related violations; penalty). This section applies when the sentence is executed, stayed, or suspended. The court may not waive payment or authorize payment of the assessment charge and surcharge in installments unless it makes written findings on the record that the convicted person is indigent or that the assessment charge and surcharge would create undue hardship for the convicted person or that person's immediate family.

(b) The chemical dependency assessment charge and surcharge required under this section are in addition to the surcharge required by section 357.021, subdivision 6 (surcharges on criminal and traffic offenders).

Subd. 2. **Distribution of money.** ~~The county court administrator shall collect and forward to the commissioner of finance \$25 of the chemical dependency assessment charge and the \$5 surcharge, if any, within 60 days after sentencing or explain to the commissioner in writing why the money was not forwarded within this time period. The commissioner shall credit the money to the commissioner of finance to be deposited in the state treasury and credited to the general fund. The county shall collect and keep \$100 of the chemical dependency assessment charge.~~

Sec. 18. Minnesota Statutes 2008, section 169A.46, subdivision 1, is amended to read:

Subdivision 1. **Impairment occurred after driving ceased.** If proven by a preponderance of the evidence, it is an affirmative defense to a violation of section 169A.20, subdivision 1, clause (5); 1a, clause (5); 1b, clause (5); or 1c, clause (5) (driving while impaired, alcohol concentration within two hours of driving), or 169A.20 by a person having an alcohol concentration of 0.20 or more as measured at the time, or within two hours of the time, of the offense, that the defendant consumed a sufficient quantity of alcohol after the time of the violation and before the administration of the evidentiary test to cause the defendant's alcohol concentration to exceed the level specified in the applicable clause. Evidence that the defendant consumed alcohol after the time of the violation may not be admitted in defense to any alleged violation of section 169A.20, unless notice is given to the

prosecution prior to the omnibus or pretrial hearing in the matter.

**EFFECTIVE DATE.** This section is effective July 1, 2009, and applies to crimes committed on or after that date.

Sec. 19. Minnesota Statutes 2008, section 169A.54, subdivision 1, is amended to read:

Subdivision 1. **Revocation periods for DWI convictions.** Except as provided in subdivision 7, the commissioner shall revoke the driver's license of a person convicted of violating section 169A.20 (driving while impaired) or an ordinance in conformity with it, as follows:

(1) for an offense under section 169A.20, subdivision 1 (driving while impaired crime): not less than 30 days;

(2) for an offense under section 169A.20, subdivision 2 (refusal to submit to chemical test crime): not less than 90 days;

(3) for an offense occurring within ten years of a qualified prior impaired driving incident:

(i) if the current conviction is for a violation of section 169A.20, subdivision 1, 1a, 1b, or 1c, not less than 180 days and until the court has certified that treatment or rehabilitation has been successfully completed where prescribed in accordance with section 169A.70 (chemical use assessments); or

(ii) if the current conviction is for a violation of section 169A.20, subdivision 2, not less than one year and until the court has certified that treatment or rehabilitation has been successfully completed where prescribed in accordance with section 169A.70;

(4) for an offense occurring within ten years of the first of two qualified prior impaired driving incidents: not less than one year, together with denial under section 171.04, subdivision 1, clause (10), until rehabilitation is established in accordance with standards established by the commissioner; or

(5) for an offense occurring within ten years of the first of three or more qualified prior impaired driving incidents: not less than two years, together with denial under section 171.04, subdivision 1, clause (10), until rehabilitation is established in accordance with standards established by the commissioner.

**EFFECTIVE DATE.** This section is effective July 1, 2009, and applies to crimes committed on or after that date.

Sec. 20. Minnesota Statutes 2008, section 299D.03, subdivision 5, is amended to read:

Subd. 5. **Traffic fines and forfeited bail money.** (a) All fines and forfeited bail money, ~~from traffic and motor vehicle law violations,~~ collected from persons apprehended or arrested by officers of the State Patrol, shall be ~~paid~~ transmitted by the person or officer collecting the fines, forfeited bail money, or installments thereof, on or before the tenth day after the last day of the month in which these moneys were collected, to the ~~county treasurer of the county where the violation occurred.~~ commissioner of finance. Except where a different disposition is required in this paragraph, paragraph (b), section 387.213, or otherwise provided by law, three-eighths of these receipts shall be credited to ~~the general revenue fund of the county, except that in a county in a judicial district under section 480.181, subdivision 1, paragraph (b), this three-eighths share~~

must be ~~transmitted to the commissioner of finance for deposit~~ deposited in the state treasury and credited to the state general fund. The other five-eighths of these receipts ~~shall be transmitted by that officer to the commissioner of finance and~~ must be deposited in the state treasury and credited as follows: (1) the first \$600,000 in each fiscal year must be credited to the Minnesota grade crossing safety account in the special revenue fund, and (2) remaining receipts must be credited to the state trunk highway fund. If, however, the violation occurs within a municipality and the city attorney prosecutes the offense, and a plea of not guilty is entered, one-third of the receipts shall be deposited in the state treasury and credited to the state general ~~revenue fund of the county~~, one-third of the receipts shall be paid to the municipality prosecuting the offense, and one-third shall be ~~transmitted to the commissioner of finance as provided in this subdivision.~~ deposited in the state treasury and credited to the Minnesota grade crossing safety account or the state trunk highway fund as provided in this paragraph. When section 387.213 also is applicable to the fine, section 387.213 shall be applied before this paragraph is applied. All costs of participation in a nationwide police communication system chargeable to the state of Minnesota shall be paid from appropriations for that purpose.

(b) Notwithstanding any other provisions of law, all fines and forfeited bail money from violations of statutes governing the maximum weight of motor vehicles, collected from persons apprehended or arrested by employees of the state of Minnesota, by means of stationary or portable scales operated by these employees, shall be ~~paid~~ transmitted by the person or officer collecting the fines or forfeited bail money, on or before the tenth day after the last day of the month in which the collections were made, to the ~~county treasurer of the county where the violation occurred~~ commissioner of finance. Five-eighths of these receipts shall be ~~transmitted by that officer to the commissioner of finance and~~ shall be deposited in the state treasury and credited to the state highway user tax distribution fund. Three-eighths of these receipts shall be deposited in the state treasury and credited to the state general revenue fund of the county, ~~except that in a county in a judicial district under section 480.181, subdivision 1, paragraph (b), this three-eighths share must be transmitted to the commissioner of finance for deposit in the state treasury and credited to the general fund.~~

Sec. 21. Minnesota Statutes 2008, section 357.021, subdivision 2, is amended to read:

Subd. 2. **Fee amounts.** The fees to be charged and collected by the court administrator shall be as follows:

(1) In every civil action or proceeding in said court, including any case arising under the tax laws of the state that could be transferred or appealed to the Tax Court, the plaintiff, petitioner, or other moving party shall pay, when the first paper is filed for that party in said action, a fee of \$240 \$310, except in marriage dissolution actions the fee is ~~\$270~~ \$340.

The defendant or other adverse or intervening party, or any one or more of several defendants or other adverse or intervening parties appearing separately from the others, shall pay, when the first paper is filed for that party in said action, a fee of \$240 \$310, except in marriage dissolution actions the fee is ~~\$270~~ \$340.

The party requesting a trial by jury shall pay ~~\$75~~ \$100.

The fees above stated shall be the full trial fee chargeable to said parties irrespective of whether trial be to the court alone, to the court and jury, or disposed of without trial, and shall include the entry of judgment in the action, but does not include copies or certified copies of any papers so filed

or proceedings under chapter 103E, except the provisions therein as to appeals.

(2) Certified copy of any instrument from a civil or criminal proceeding, ~~\$10~~ \$14, and ~~\$5~~ \$8 for an uncertified copy.

(3) Issuing a subpoena, ~~\$12~~ \$16 for each name.

(4) Filing a motion or response to a motion in civil, family, excluding child support, and guardianship cases, ~~\$55~~ \$100.

(5) Issuing an execution and filing the return thereof; issuing a writ of attachment, injunction, habeas corpus, mandamus, quo warranto, certiorari, or other writs not specifically mentioned, ~~\$40~~ \$55.

(6) Issuing a transcript of judgment, or for filing and docketing a transcript of judgment from another court, ~~\$30~~ \$40.

(7) Filing and entering a satisfaction of judgment, partial satisfaction, or assignment of judgment, \$5.

(8) Certificate as to existence or nonexistence of judgments docketed, \$5 for each name certified to.

(9) Filing and indexing trade name; or recording basic science certificate; or recording certificate of physicians, osteopaths, chiropractors, veterinarians, or optometrists, \$5.

(10) For the filing of each partial, final, or annual account in all trusteeships, ~~\$40~~ \$55.

(11) For the deposit of a will, ~~\$20~~ \$27.

(12) For recording notary commission, \$100, of which, notwithstanding subdivision 1a, paragraph (b), \$80 must be forwarded to the commissioner of finance to be deposited in the state treasury and credited to the general fund.

(13) Filing a motion or response to a motion for modification of child support, a fee of ~~\$55~~ \$100.

(14) All other services required by law for which no fee is provided, such fee as compares favorably with those herein provided, or such as may be fixed by rule or order of the court.

(15) In addition to any other filing fees under this chapter, a surcharge in the amount of \$75 must be assessed in accordance with section 259.52, subdivision 14, for each adoption petition filed in district court to fund the fathers' adoption registry under section 259.52.

The fees in clauses (3) and (5) need not be paid by a public authority or the party the public authority represents.

Sec. 22. Minnesota Statutes 2008, section 357.021, subdivision 6, is amended to read:

Subd. 6. **Surcharges on criminal and traffic offenders.** (a) Except as provided in this paragraph, the court shall impose and the court administrator shall collect a \$75 surcharge on every person convicted of any felony, gross misdemeanor, misdemeanor, or petty misdemeanor offense, other than a violation of a law or ordinance relating to vehicle parking, for which there shall be a ~~\$4~~ \$12 surcharge. When a defendant is convicted of more than one offense in a case, the surcharge



shall be imposed only once in that case. In the Second Judicial District, the court shall impose, and the court administrator shall collect, an additional \$1 surcharge on every person convicted of any felony, gross misdemeanor, misdemeanor, or petty misdemeanor offense, including a violation of a law or ordinance relating to vehicle parking, if the Ramsey County Board of Commissioners authorizes the \$1 surcharge. The surcharge shall be imposed whether or not the person is sentenced to imprisonment or the sentence is stayed. The surcharge shall not be imposed when a person is convicted of a petty misdemeanor for which no fine is imposed.

(b) If the court fails to impose a surcharge as required by this subdivision, the court administrator shall show the imposition of the surcharge, collect the surcharge, and correct the record.

(c) The court may not waive payment of the surcharge required under this subdivision. Upon a showing of indigency or undue hardship upon the convicted person or the convicted person's immediate family, the sentencing court may authorize payment of the surcharge in installments.

(d) The court administrator or other entity collecting a surcharge shall forward it to the commissioner of finance.

(e) If the convicted person is sentenced to imprisonment and has not paid the surcharge before the term of imprisonment begins, the chief executive officer of the correctional facility in which the convicted person is incarcerated shall collect the surcharge from any earnings the inmate accrues from work performed in the facility or while on conditional release. The chief executive officer shall forward the amount collected to the ~~commissioner of finance~~ court administrator or other entity collecting the surcharge imposed by the court.

(f) A person who successfully completes a diversion or similar program for a violation of chapter 169 must pay the surcharge described in this subdivision.

Sec. 23. Minnesota Statutes 2008, section 357.021, subdivision 7, is amended to read:

Subd. 7. **Disbursement of surcharges by commissioner of finance.** (a) Except as provided in paragraphs (b), (c), and (d), the commissioner of finance shall disburse surcharges received under subdivision 6 and section 97A.065, subdivision 2, as follows:

(1) one percent shall be credited to the game and fish fund to provide peace officer training for employees of the Department of Natural Resources who are licensed under sections 626.84 to 626.863, and who possess peace officer authority for the purpose of enforcing game and fish laws;

(2) 39 percent shall be credited to the peace officers training account in the special revenue fund; and

(3) 60 percent shall be credited to the general fund.

(b) The commissioner of finance shall credit \$3 of each surcharge received under subdivision 6 and section 97A.065, subdivision 2, to the general fund.

(c) In addition to any amounts credited under paragraph (a), the commissioner of finance shall credit \$47 of each surcharge received under subdivision 6 and section 97A.065, subdivision 2, and the \$4 \$12 parking surcharge, to the general fund.

(d) If the Ramsey County Board of Commissioners authorizes imposition of the additional \$1 surcharge provided for in subdivision 6, paragraph (a), the court administrator in the Second Judicial

District shall transmit the surcharge to the commissioner of finance. The \$1 special surcharge is deposited in a Ramsey County surcharge account in the special revenue fund and amounts in the account are appropriated to the trial courts for the administration of the petty misdemeanor diversion program operated by the Second Judicial District Ramsey County Violations Bureau.

Sec. 24. Minnesota Statutes 2008, section 357.022, is amended to read:

**357.022 CONCILIATION COURT FEE.**

The court administrator in every county shall charge and collect a filing fee of ~~\$50~~ \$65 from every plaintiff and from every defendant when the first paper for that party is filed in any conciliation court action. This section does not apply to conciliation court actions filed by the state. The court administrator shall transmit the fees monthly to the commissioner of finance for deposit in the state treasury and credit to the general fund.

Sec. 25. Minnesota Statutes 2008, section 357.08, is amended to read:

**357.08 PAID BY APPELLANT IN APPEAL.**

There shall be paid to the clerk of the appellate courts by the appellant, or moving party or person requiring the service, in all cases of appeal, certiorari, habeas corpus, mandamus, injunction, prohibition, or other original proceeding, when initially filed with the clerk of the appellate courts, the sum of ~~\$500~~ \$550 to the clerk of the appellate courts. An additional filing fee of \$100 shall be required for a petition for accelerated review by the Supreme Court. A filing fee of ~~\$500~~ \$550 shall be paid to the clerk of the appellate courts upon the filing of a petition for review from a decision of the Court of Appeals. A filing fee of ~~\$500~~ \$550 shall be paid to the clerk of the appellate courts upon the filing of a petition for permission to appeal. A filing fee of \$100 shall be paid to the clerk of the appellate courts upon the filing by a respondent of a notice of review. The clerk shall transmit the fees to the commissioner of finance for deposit in the state treasury and credit to the general fund.

The clerk shall not file any paper, issue any writ or certificate, or perform any service enumerated herein, until the payment has been made for it. The clerk shall pay the sum into the state treasury as provided for by section 15A.01.

The charges provided for shall not apply to disbarment proceedings, nor to an action or proceeding by the state taken solely in the public interest, where the state is the appellant or moving party, nor to copies of the opinions of the court furnished by the clerk to the parties before judgment, or furnished to the district judge whose decision is under review, or to such law library associations in counties having a population exceeding 50,000, as the court may direct.

Sec. 26. Minnesota Statutes 2008, section 364.08, is amended to read:

**364.08 PRACTICE OF LAW; EXCEPTION.**

This chapter shall not apply to the practice of law or judicial branch employment; but nothing in this section shall be construed to preclude the Supreme Court, in its discretion, from adopting the policies set forth in this chapter.

Sec. 27. Minnesota Statutes 2008, section 375.14, is amended to read:

**375.14 OFFICES AND SUPPLIES FURNISHED FOR COUNTY OFFICERS.**

The county board shall provide offices at the county seat for the auditor, treasurer, county recorder, sheriff, court administrator of the district court, and an office for the county engineer at a site determined by the county board, with suitable furniture and safes and vaults for the security and preservation of the books and papers of the offices, and provide heating, lighting, and maintenance of the offices. The board shall furnish all county officers with all books, stationery, letterheads, envelopes, postage, telephone service, office equipment, electronic technology, and supplies necessary to the discharge of their respective duties ~~and make like provision for the judges of the district court as necessary to the discharge of their duties within the county or concerning matters arising in it.~~ The board is not required to furnish any county officer with professional or technical books or instruments except when the board deems them directly necessary to the discharge of official duties as part of the permanent equipment of the office.

Sec. 28. Minnesota Statutes 2008, section 480.15, is amended by adding a subdivision to read:

Subd. 10c. **Uniform collections policies and procedures for courts.** (a) The state court administrator under the direction of the Judicial Council may promulgate uniform collections policies and procedures for the courts and may contract with credit bureaus, public and private collection agencies, the Department of Revenue, and other public or private entities providing collection services as necessary for the collection of court debts. The court collection process and procedures are not subject to section 16A.1285. Court debts referred to the Department of Revenue for collection are not subject to section 16D.07.

(b) Court debt means an amount owed to the state directly or through the judicial branch on account of a fee, duty, rent, service, overpayment, fine, assessment, surcharge, court cost, penalty, restitution, damages, interest, bail bond, forfeiture, reimbursement, liability owed, an assignment to the judicial branch, recovery of costs incurred by the judicial branch, or any other source of indebtedness to the judicial branch as well as amounts owed to other public or private entities for which the judicial branch acts in providing collection services, or any other amount owed to the judicial branch.

(c) The courts must pay for the collection services of public or private collection entities as well as the cost of one or more court employees to provide collection interface services between the Department of Revenue, the courts, and one or more collection entities from the money collected. The portion of the money collected which must be paid to the collection entity as collection fees and costs and the portion of the money collected which must be paid to the courts or Department of Revenue for collection services are appropriated from the fund to which the collected money is due.

(d) As determined by the state court administrator, collection costs shall be added to the debts referred to a public or private collection entity for collection.

Collection costs shall include the fees of the collection entity, and may include, if separately provided, skip tracing fees, credit bureau reporting charges, fees assessed by any public entity for obtaining information necessary for debt collection, or other collection-related costs. Collection costs shall also include the costs of one or more court employees employed by the state court administrator to provide a collection interface between the collection entity, the Department of Revenue, and the courts.

If the collection entity collects an amount less than the total due, the payment is applied proportionally to collection costs and the underlying debt. Collection costs in excess of collection agency fees and court employee collection interface costs must be deposited in the general fund

as nondedicated receipts.

Sec. 29. Minnesota Statutes 2008, section 484.85, is amended to read:

**484.85 DISPOSITION OF FINES, FEES, AND OTHER MONEY; ACCOUNTS; RAMSEY COUNTY DISTRICT COURT.**

~~(a) In the event the Ramsey County District Court takes jurisdiction of a prosecution for the violation of a statute or ordinance by the state or a governmental subdivision other than a city or town in Ramsey County, all fines, penalties, and forfeitures collected shall be paid over to the county treasurer except where a different disposition is provided by law, and the following fees shall be taxed to the state or governmental subdivision other than a city or town within Ramsey County which would be entitled to payment of the fines, forfeitures, or penalties in any case, and shall be paid to the administrator of the court for disposal of the matter. The administrator shall deduct the fees from any fine collected for the state of Minnesota or a governmental subdivision other than a city or town within Ramsey County and transmit the balance in accordance with the law, and the deduction of the total of the fees each month from the total of all the fines collected is hereby expressly made an appropriation of funds for payment of the fees:~~

~~(1) in all cases where the defendant is brought into court and pleads guilty and is sentenced, or the matter is otherwise disposed of without a trial, \$5;~~

~~(2) in arraignments where the defendant waives a preliminary examination, \$10;~~

~~(3) in all other cases where the defendant stands trial or has a preliminary examination by the court, \$15; and~~

~~(4) the court shall have the authority to waive the collection of fees in any particular case.~~

~~(b) On or before the last day of each month, the county treasurer shall pay over to the treasurer of the city of St. Paul two-thirds of all fines, penalties, and forfeitures collected and to the treasurer of each other municipality or subdivision of government in Ramsey County one-half of all fines or penalties collected during the previous month from those imposed for offenses committed within the treasurer's municipality or subdivision of government in violation of a statute; an ordinance; or a charter provision, rule, or regulation of a city. All other fines and forfeitures and all fees and costs collected by the district court shall be paid to the treasurer of Ramsey County, who shall dispense the same as provided by law.~~

(a) In all cases prosecuted in Ramsey County District Court by an attorney for a municipality or subdivision of government within Ramsey County for violation of a statute; an ordinance; or a charter provision, rule, or regulation of a city; all fines, penalties, and forfeitures collected by the court administrator shall be deposited in the state treasury and distributed according to this paragraph. Except where a different disposition is provided by section 299D.03, subdivision 5, or other law, on or before the last day of each month, the court shall pay over all fines, penalties, and forfeitures collected by the court administrator during the previous month as follows:

(1) for offenses committed within the city of St. Paul, two-thirds paid to the treasurer of the city of St. Paul and one-third credited to the state general fund; and

(2) for offenses committed within any other municipality or subdivision of government within Ramsey County, one-half to the treasurer of the municipality or subdivision of government and

one-half credited to the state general fund.

All other fines, penalties, and forfeitures collected by the district court shall be distributed by the courts as provided by law.

(b) Fines, penalties, and forfeitures shall be distributed as provided in paragraph (a) when:

(1) a city contracts with the county attorney for prosecutorial services under section 484.87, subdivision 3; or

(2) the attorney general provides assistance to the city attorney under section 484.87, subdivision 5.

Sec. 30. Minnesota Statutes 2008, section 484.90, subdivision 6, is amended to read:

~~Subd. 6. **Allocation.** The court administrator shall provide the county treasurer with the name of the municipality or other subdivision of government where the offense was committed which employed or provided by contract the arresting or apprehending officer and the name of the municipality or other subdivision of government which employed the prosecuting attorney or otherwise provided for prosecution of the offense for each fine or penalty and the total amount of fines or penalties collected for each municipality or other subdivision of government. On or before the last day of each month, the county treasurer shall pay over to the treasurer of each municipality or subdivision of government within the county all fines or penalties for parking violations for which complaints and warrants have not been issued and one third of all fines or penalties collected during the previous month for offenses committed within the municipality or subdivision of government from persons arrested or issued citations by officers employed by the municipality or subdivision or provided by the municipality or subdivision by contract. An additional one third of all fines or penalties shall be paid to the municipality or subdivision of government providing prosecution of offenses of the type for which the fine or penalty is collected occurring within the municipality or subdivision, imposed for violations of state statute or of an ordinance, charter provision, rule, or regulation of a city whether or not a guilty plea is entered or bail is forfeited. Except as provided in section 299D.03, subdivision 5, or as otherwise provided by law, all other fines and forfeitures and all fees and statutory court costs collected by the court administrator shall be paid to the county treasurer of the county in which the funds were collected who shall dispense them as provided by law. In a county in a judicial district under section 480.181, subdivision 1, paragraph (b), all other fines, forfeitures, fees, and statutory court costs must be paid to the commissioner of finance for deposit in the state treasury and credited to the general fund.~~ (a) In all cases prosecuted in district court by an attorney for a municipality or other subdivision of government within the county for violations of state statute, or of an ordinance; or charter provision, rule, or regulation of a city; all fines, penalties, and forfeitures collected shall be deposited in the state treasury and distributed according to this paragraph. Except where a different disposition is provided by section 299D.03, subdivision 5, 484.841, 484.85, or other law, on or before the last day of each month, the courts shall pay over all fines, penalties, and forfeitures collected by the court administrator during the previous month as follows:

(1) 100 percent of all fines or penalties for parking violations for which complaints and warrants have not been issued to the treasurer of the city or town in which the offense was committed; and

(2) two-thirds of all other fines to the treasurer of the city or town in which the offense was committed and one-third credited to the state general fund.

All other fines, penalties, and forfeitures collected by the court administrator shall be distributed by the courts as provided by law.

(b) Fines, penalties, and forfeitures shall be distributed as provided in paragraph (a) when:

(1) a city contracts with the county attorney for prosecutorial services under section 484.87, subdivision 3;

(2) a city has a population of 600 or less and has given the duty to prosecute cases to the county attorney under section 487.87; or

(3) the attorney general provides assistance to the county attorney as permitted by law.

Sec. 31. Minnesota Statutes 2008, section 484.91, subdivision 1, is amended to read:

Subdivision 1. **Establishment.** Misdemeanor violations bureaus in the Fourth Judicial District shall be established in Minneapolis, a southern suburb location, and at any other northern and western suburban locations dispersed throughout the county as may be designated by a majority of the judges of the court.

Sec. 32. Minnesota Statutes 2008, section 491A.02, subdivision 9, is amended to read:

Subd. 9. **Judgment debtor disclosure.** Notwithstanding any contrary provision in rule 518 of the Conciliation Court Rules, unless the parties have otherwise agreed, if a conciliation court judgment or a judgment of district court on removal from conciliation court has been docketed in district court, the judgment creditor's attorney as an officer of the court may or the district court in the county in which the judgment originated shall, upon request of the judgment creditor, order the judgment debtor to mail to the judgment creditor information as to the nature, amount, identity, and locations of all the debtor's assets, liabilities, and personal earning. The information must be provided on a form prescribed by the Supreme Court, and the information shall be sufficiently detailed to enable the judgment creditor to obtain satisfaction of the judgment by way of execution on nonexempt assets and earnings of the judgment debtor. The order must contain a notice that failure to complete the form and mail it to the judgment creditor within ten days after service of the order may result in a citation for civil contempt of court. Cash bail posted as a result of being cited for civil contempt of court order under this section may be ordered payable to the creditor to satisfy the judgment, either partially or fully.

Sec. 33. Minnesota Statutes 2008, section 491A.03, subdivision 1, is amended to read:

Subdivision 1. **Judges; referees.** The judges of district court shall may serve as judges of conciliation court. In the Second and Fourth Judicial Districts, A majority of the judges The chief judge of the district may appoint one or more suitable persons to act as referees in conciliation court; a majority of the judges the chief judge of the district shall establish qualifications for the office, specify the duties and length of service of referees, and fix their compensation not to exceed an amount per day determined by the chief judge of the judicial district.

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

Sec. 34. Minnesota Statutes 2008, section 525.091, subdivision 1, is amended to read:

Subdivision 1. **Original documents.** The court administrator of any county upon order of the judge exercising probate jurisdiction may destroy all the original documents in any probate

proceeding of record in the office ~~five years~~ after the file in such proceeding has been closed provided the original or a Minnesota state archives commission approved photographic, photostatic, microphotographic, microfilmed, or similarly reproduced copy of the original of the following enumerated documents in the proceeding are on file in the office.

Enumerated original documents:

(a) In estates, the jurisdictional petition and proof of publication of the notice of hearing thereof; will and certificate of probate; letters; inventory and appraisal; orders directing and confirming sale, mortgage, lease, or for conveyance of real estate; order setting apart statutory selection; receipts for federal estate taxes and state estate taxes; orders of distribution and general protection; decrees of distribution; federal estate tax closing letter, consent to discharge by commissioner of revenue and order discharging representative; and any amendment of the listed documents.

When an estate is deemed closed as provided in clause (d) of this subdivision, the enumerated documents shall include all claims of creditors.

(b) In guardianships or conservatorships, the jurisdictional petition and order for hearing thereof with proof of service; letters; orders directing and confirming sale, mortgage, lease or for conveyance of real estate; order for restoration to capacity and order discharging guardian; and any amendment of the listed documents.

(c) In mental, inebriety, and indigent matters, the jurisdictional petition; report of examination; warrant of commitment; notice of discharge from institution, or notice of death and order for restoration to capacity; and any amendment of the listed documents.

(d) Except for the enumerated documents described in this subdivision, the court administrator may destroy all other original documents in any probate proceeding without retaining any reproduction of the document. For the purpose of this subdivision, a proceeding is deemed closed if no document has been filed in the proceeding for a period of 15 years, except in the cases of wills filed for safekeeping and those containing wills of decedents not adjudicated upon.

Sec. 35. Minnesota Statutes 2008, section 549.09, subdivision 1, is amended to read:

Subdivision 1. **When owed; rate.** (a) When a judgment or award is for the recovery of money, including a judgment for the recovery of taxes, interest from the time of the verdict, award, or report until judgment is finally entered shall be computed by the court administrator or arbitrator as provided in paragraph (c) and added to the judgment or award.

(b) Except as otherwise provided by contract or allowed by law, preverdict, preaward, or prereport interest on pecuniary damages shall be computed as provided in paragraph (c) from the time of the commencement of the action or a demand for arbitration, or the time of a written notice of claim, whichever occurs first, except as provided herein. The action must be commenced within two years of a written notice of claim for interest to begin to accrue from the time of the notice of claim. If either party serves a written offer of settlement, the other party may serve a written acceptance or a written counteroffer within 30 days. After that time, interest on the judgment or award shall be calculated by the judge or arbitrator in the following manner. The prevailing party shall receive interest on any judgment or award from the time of commencement of the action or a demand for arbitration, or the time of a written notice of claim, or as to special damages from the time when special damages were incurred, if later, until the time of verdict, award, or

report only if the amount of its offer is closer to the judgment or award than the amount of the opposing party's offer. If the amount of the losing party's offer was closer to the judgment or award than the prevailing party's offer, the prevailing party shall receive interest only on the amount of the settlement offer or the judgment or award, whichever is less, and only from the time of commencement of the action or a demand for arbitration, or the time of a written notice of claim, or as to special damages from when the special damages were incurred, if later, until the time the settlement offer was made. Subsequent offers and counteroffers supersede the legal effect of earlier offers and counteroffers. For the purposes of clause (2), the amount of settlement offer must be allocated between past and future damages in the same proportion as determined by the trier of fact. Except as otherwise provided by contract or allowed by law, preverdict, preaward, or prereport interest shall not be awarded on the following:

(1) judgments, awards, or benefits in workers' compensation cases, but not including third-party actions;

(2) judgments or awards for future damages;

(3) punitive damages, fines, or other damages that are noncompensatory in nature;

(4) judgments or awards not in excess of the amount specified in section 491A.01; and

(5) that portion of any verdict, award, or report which is founded upon interest, or costs, disbursements, attorney fees, or other similar items added by the court or arbitrator.

(c)(1) For a judgment or award of \$50,000 or less, the interest shall be computed as simple interest per annum. The rate of interest shall be based on the secondary market yield of one year United States Treasury bills, calculated on a bank discount basis as provided in this section.

On or before the 20th day of December of each year the state court administrator shall determine the rate from the one-year constant maturity treasury yield for the most recent calendar month, reported on a monthly basis in the latest statistical release of the board of governors of the Federal Reserve System. This yield, rounded to the nearest one percent, or four percent, whichever is greater, shall be the annual interest rate during the succeeding calendar year. The state court administrator shall communicate the interest rates to the court administrators and sheriffs for use in computing the interest on verdicts and shall make the interest rates available to arbitrators.

(2) For a judgment or award over \$50,000, the interest rate shall be ten percent per year until paid.

(3) When a judgment creditor, or the judgment creditor's attorney or agent, has received a payment after entry of judgment, whether the payment is made voluntarily by or on behalf of the judgment debtor, or is collected by legal process other than execution levy where a proper return has been filed with the court administrator, the judgment creditor, or the judgment creditor's attorney, before applying to the court administrator for an execution shall file with the court administrator an affidavit of partial satisfaction. The affidavit must state the dates and amounts of payments made upon the judgment after the most recent affidavit of partial satisfaction filed, if any; the part of each payment that is applied to taxable disbursements and to accrued interest and to the unpaid principal balance of the judgment; and the accrued, but the unpaid interest owing, if any, after application of each payment.

(d) This section does not apply to arbitrations between employers and employees under chapter



179 or 179A. An arbitrator is neither required to nor prohibited from awarding interest under chapter 179 or under section 179A.16 for essential employees.

**EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to judgments and awards finally entered on or after that date.

Sec. 36. Minnesota Statutes 2008, section 550.011, is amended to read:

**550.011 JUDGMENT DEBTOR DISCLOSURE.**

Unless the parties have otherwise agreed, if a judgment has been docketed in district court for at least 30 days, and the judgment is not satisfied, the judgment creditor's attorney as an officer of the court may or the district court in the county in which the judgment originated shall, upon request of the judgment creditor, order the judgment debtor to mail by certified mail to the judgment creditor information as to the nature, amount, identity, and locations of all the debtor's assets, liabilities, and personal earnings. The information must be provided on a form prescribed by the Supreme Court, and the information shall be sufficiently detailed to enable the judgment creditor to obtain satisfaction of the judgment by way of execution on nonexempt assets and earnings of the judgment debtor. The order must contain a notice that failure to complete the form and mail it to the judgment creditor within ten days after service of the order may result in a citation for civil contempt of court. Cash bail posted as a result of being cited for civil contempt of court order under this section may be ordered payable to the creditor to satisfy the judgment, either partially or fully.

Sec. 37. Minnesota Statutes 2008, section 609.035, subdivision 2, is amended to read:

Subd. 2. **Consecutive sentences.** (a) When a person is being sentenced for a violation of a provision listed in paragraph (e), the court may sentence the person to a consecutive term of imprisonment for a violation of any other provision listed in paragraph (e), notwithstanding the fact that the offenses arose out of the same course of conduct, subject to the limitation on consecutive sentences contained in section 609.15, subdivision 2, and except as provided in paragraphs (b), (c), and (f) of this subdivision.

(b) When a person is being sentenced for a violation of section 171.09, 171.20, 171.24, or 171.30, the court may not impose a consecutive sentence for another violation of a provision in chapter 171.

(c) When a person is being sentenced for a violation of section 169.791 or 169.797, the court may not impose a consecutive sentence for another violation of a provision of sections 169.79 to 169.7995.

(d) This subdivision does not limit the authority of the court to impose consecutive sentences for crimes arising on different dates or to impose a consecutive sentence when a person is being sentenced for a crime and is also in violation of the conditions of a stayed or otherwise deferred sentence under section 609.135.

(e) This subdivision applies to misdemeanor and gross misdemeanor violations of the following if the offender has two or more prior impaired driving convictions as defined in section 169A.03 within the past ten years:

- (1) section 169A.20, subdivision 1, 1a, 1b, or 1c , driving while impaired;
- (2) section 169A.20, subdivision 2, test refusal;

- (3) section 169.791, failure to provide proof of insurance;
- (4) section 169.797, failure to provide vehicle insurance;
- (5) section 171.09, violation of condition of restricted license;
- (6) section 171.20, subdivision 2, operation after revocation, suspension, cancellation, or disqualification;
- (7) section 171.24, driving without valid license; and
- (8) section 171.30, violation of condition of limited license.

(f) When a court is sentencing an offender for a violation of section 169A.20 and a violation of an offense listed in paragraph (e), and the offender has five or more qualified prior impaired driving incidents, as defined in section 169A.03, within the past ten years, the court shall sentence the offender to serve consecutive sentences for the offenses, notwithstanding the fact that the offenses arose out of the same course of conduct.

**EFFECTIVE DATE.** This section is effective July 1, 2009, and applies to crimes committed on or after that date.

**Sec. 38. [609.092] JUVENILE PETTY OFFENDERS; USE OF RESTORATIVE JUSTICE.**

**Subdivision 1. First-time juvenile petty offenders; applicability; procedure.** (a) This subdivision applies to a child alleged to be a juvenile petty offender who:

- (1) has not been previously adjudicated delinquent or as a petty offender;
- (2) has not previously participated in or completed a diversion program for an offense;
- (3) has not previously been placed on probation without an adjudication for an offense or received a continuance under section 260B.198, subdivision 7; and
- (4) agrees to successfully complete a restorative justice program under this section.

(b) Subject to subdivision 6, the prosecutor shall refer a child described in paragraph (a) to a restorative justice program or provider that has been included on the approved provider list described in subdivision 4. The program or provider shall arrange an appropriate outcome for the matter using restorative justice concepts. The program or provider shall involve the victim of the offense in the proceedings. If the victim is unwilling or unable to proceed, or if there is no identifiable victim, the program or provider shall ensure that someone serves as a proxy for the victim. The program or provider and child, along with other participants, shall agree in writing to an appropriate sanction for the child. The sanction may include any of the dispositions authorized in section 260B.235, if appropriate, along with any other sanctions agreed to.

**Subd. 2. Failure to comply.** If a person fails to comply with the settlement agreement, the person shall be referred back to the court for further proceedings.

**Subd. 3. Dismissal of charge.** Upon the successful completion by a person of the sanctions agreed to in the settlement agreement, the program or provider shall notify the court and the court shall dismiss the charge against the person.

Subd. 4. **Approved list.** The prosecutor shall maintain a list of approved restorative justice programs and providers to which persons may be referred under this section.

Subd. 5. **Preference for culturally specific programs.** If a restorative justice program or provider that is tailored in a more culturally specific manner to the person is on the list of approved providers under subdivision 4, and the prosecutor is referring the person to a restorative justice program or provider under this section, the prosecutor shall refer the person to the more appropriate program or provider.

Subd. 6. **Exceptions; availability of programs; diversion alternatives; domestic abuse.** This section applies only in jurisdictions where suitable restorative justice programs and providers are available and are able to accept the referral. This section does not apply if a prosecutor has determined that a nonrestorative justice diversion program is more appropriate for the person. In addition, this section does not apply to cases involving domestic violence or domestic assault.

Subd. 7. **Definition.** As used in this section, "restorative justice" has the meaning given in section 611A.775. The term also includes Native American sentencing circles.

Sec. 39. Minnesota Statutes 2008, section 609.10, subdivision 1, is amended to read:

Subdivision 1. **Sentences available.** (a) Upon conviction of a felony and compliance with the other provisions of this chapter the court, if it imposes sentence, may sentence the defendant to the extent authorized by law as follows:

- (1) to life imprisonment; or
- (2) to imprisonment for a fixed term of years set by the court; or
- (3) to both imprisonment for a fixed term of years and payment of a fine; or
- (4) to payment of a fine without imprisonment ~~or to imprisonment for a fixed term of years if the fine is not paid~~ or as an intermediate sanction on a stayed sentence; or
- (5) to payment of court-ordered restitution in addition to either imprisonment or payment of a fine, or both; or
- (6) to payment of a local correctional fee as authorized under section 609.102 in addition to any other sentence imposed by the court.

(b) If the court imposes a fine or orders restitution under paragraph (a), payment is due on the date imposed unless the court otherwise establishes a due date or a payment plan.

Sec. 40. Minnesota Statutes 2008, section 609.101, subdivision 3, is amended to read:

Subd. 3. **Controlled substance offenses; minimum fines.** (a) Notwithstanding any other law, when a court sentences a person convicted of a controlled substance crime under sections 152.021 to 152.025 and 152.0262, it must impose a fine of not less than 30 percent of the maximum fine authorized by law nor more than the maximum fine authorized by law.

(b) The minimum fine required by this subdivision is in addition to the surcharge or assessment required by section 357.021, subdivision 6, and is in addition to any sentence of imprisonment or restitution imposed or ordered by the court.

(c) The court shall collect the fine mandated by this subdivision and forward 70 percent of it to a local drug abuse prevention or intervention program existing or being implemented in the county in which the crime was committed. The court shall forward the remaining 30 percent to the commissioner of finance to be credited to the general fund. If more than one drug abuse prevention or intervention program serves the county in which the crime was committed, the court may designate on a case-by-case basis which program will receive the fine proceeds, giving consideration to the community in which the crime was committed, the funding needs of the program, the number of peace officers in each community certified to teach the program, and the number of children served by the program in each community. If no drug abuse prevention or intervention program serves communities in that county, the court shall forward 100 percent of the fine proceeds to the commissioner of finance to be credited to the general fund.

(d) The minimum fines required by this subdivision shall be collected as are other fines. Fine proceeds received by a local drug abuse prevention or intervention program must be used to support that program, and may be used for salaries of program staff or peace officers certified to teach the program. ~~The drug abuse resistance education program must report receipt and use of money generated under this subdivision as prescribed by the Drug Abuse Resistance Education Advisory Council to the state court administrator by January 15 of each year. The state court administrator must make this information available upon request.~~

(e) As used in this subdivision, "drug abuse prevention or intervention program" and "program" include:

(1) the drug abuse resistance education program described in section 299A.33; ~~and~~

(2) ~~any similar~~ a drug abuse education and prevention program that includes the following components:

(i) instruction for students enrolled in kindergarten through grade six that is designed to teach students to recognize and resist pressures to experiment with controlled substances and alcohol;

(ii) provisions for parental involvement;

(iii) classroom instruction by uniformed law enforcement personnel;

(iv) the use of positive student leaders to influence younger students not to use drugs; and

(v) an emphasis on activity-oriented techniques designed to encourage student-generated responses to problem-solving situations; and

(3) a juvenile court program that:

(i) provides intervention strategies to reduce drug abuse and criminal behavior in juvenile offenders; and

(ii) promotes local drug abuse prevention efforts within the community.

Sec. 41. Minnesota Statutes 2008, section 609.101, subdivision 4, is amended to read:

Subd. 4. **Minimum fines; other crimes.** Notwithstanding any other law:

(1) when a court sentences a person convicted of a felony that is not listed in subdivision 2 or 3,

it must impose a fine of not less than 30 percent of the maximum fine authorized by law nor more than the maximum fine authorized by law; and

(2) when a court sentences a person convicted of a gross misdemeanor or misdemeanor that is not listed in subdivision 2, it must impose a fine of not less than 30 percent of the maximum fine authorized by law nor more than the maximum fine authorized by law, unless the fine is set at a lower amount on a uniform fine schedule established by the Judicial Council in consultation with affected state and local agencies. This schedule shall be promulgated not later than September 1 of each year and shall become effective on January 1 of the next year unless the legislature, by law, provides otherwise.

The minimum fine required by this subdivision is in addition to the surcharge or assessment required by section 357.021, subdivision 6, and is in addition to any sentence of imprisonment or restitution imposed or ordered by the court.

~~The court shall collect the fines mandated in this subdivision and, except for fines for traffic and motor vehicle violations governed by section 169.871 and section 299D.03 and fish and game violations governed by section 97A.065, forward 20 percent of the revenues to the commissioner of finance for deposit in the general fund.~~

**Sec. 42. [609.104] FINE AND SURCHARGE COLLECTION.**

Subdivision 1. **Failure to pay restitution or fine.** (a) Any portion of a fine, surcharge, court cost, restitution, or fee that the defendant fails to pay by the due date may be referred for collection under section 480.15, subdivision 10c. If the defendant has agreed to a payment plan but fails to pay an installment when due, the entire amount remaining becomes due and payable and may be referred for collection under section 480.15, subdivision 10c.

(b) The defendant may contest the referral for collection based on inability to pay by requesting a hearing no later than the due date. The defendant shall be notified in writing at sentencing that under section 480.15, subdivision 10c, the court may refer the case for collection for nonpayment, and collection costs may be added to the amount due. The defendant shall also be notified in writing of the right to contest a referral for collection. The state court administrator shall develop the notice language.

Subd. 2. **Fine and surcharge collection.** (a) A defendant's obligation to pay court-ordered fines, surcharges, court costs, restitution, and fees shall survive after the due date for a period set by the Judicial Council.

(b) Any change in the collection period established by the Judicial Council shall be effective on court-ordered fines, surcharges, court costs, restitution, and fees imposed on or after the effective date of this section.

(c) The period relating to a defendant's obligation to pay restitution under paragraph (a) does not limit the victim's right to collect restitution through other means such as a civil judgment.

(d) Nothing in this subdivision extends the period of a defendant's stay of sentence imposition or execution.

Sec. 43. Minnesota Statutes 2008, section 609.125, subdivision 1, is amended to read:

Subdivision 1. **Sentences available.** (a) Upon conviction of a misdemeanor or gross misdemeanor the court, if sentence is imposed, may, to the extent authorized by law, sentence the defendant:

- (1) to imprisonment for a definite term; or
- (2) to payment of a fine, ~~or to imprisonment for a specified term if the fine is not paid~~ without imprisonment or as an intermediate sanction on a stayed sentence; or
- (3) to both imprisonment for a definite term and payment of a fine; or
- (4) to payment of court-ordered restitution in addition to either imprisonment or payment of a fine, or both; or
- (5) to payment of a local correctional fee as authorized under section 609.102 in addition to any other sentence imposed by the court; or
- (6) to perform work service in a restorative justice program in addition to any other sentence imposed by the court.

(b) If the court imposes a fine or orders restitution under paragraph (a), payment is due on the date imposed unless the court otherwise establishes a due date or a payment plan.

Sec. 44. Minnesota Statutes 2008, section 609.135, subdivision 1, is amended to read:

Subdivision 1. **Terms and conditions.** (a) Except when a sentence of life imprisonment is required by law, or when a mandatory minimum sentence is required by section 609.11, any court may stay imposition or execution of sentence and:

- (1) may order intermediate sanctions without placing the defendant on probation; or
- (2) may place the defendant on probation with or without supervision and on the terms the court prescribes, including intermediate sanctions when practicable. The court may order the supervision to be under the probation officer of the court, or, if there is none and the conviction is for a felony or gross misdemeanor, by the commissioner of corrections, or in any case by some other suitable and consenting person. Unless the court directs otherwise, state parole and probation agents and probation officers may impose community work service or probation violation sanctions, consistent with section 243.05, subdivision 1; sections 244.196 to 244.199; or 401.02, subdivision 5.

No intermediate sanction may be ordered performed at a location that fails to observe applicable requirements or standards of chapter 181A or 182, or any rule promulgated under them.

(b) For purposes of this subdivision, subdivision 6, and section 609.14, the term "intermediate sanctions" includes but is not limited to incarceration in a local jail or workhouse, home detention, electronic monitoring, intensive probation, sentencing to service, reporting to a day reporting center, chemical dependency or mental health treatment or counseling, restitution, fines, day-fines, community work service, work service in a restorative justice program, work in lieu of or to work off fines and, with the victim's consent, work in lieu of or to work off restitution.

(c) A court may not stay the revocation of the driver's license of a person convicted of violating the provisions of section 169A.20.

(d) If the court orders a fine, day-fine, or restitution as an intermediate sanction, payment is due on the date imposed unless the court otherwise establishes a due date or a payment plan.

Sec. 45. Minnesota Statutes 2008, section 609.135, subdivision 1a, is amended to read:

Subd. 1a. **Failure to pay restitution or fine.** If the court orders payment of restitution ~~or a fine~~ as a condition of probation and if the defendant fails to pay the restitution ~~or a fine~~ in accordance with the payment schedule or structure established by the court or the probation officer, the prosecutor or the defendant's probation officer may, on the prosecutor's or the officer's own motion or at the request of the victim, ask the court to hold a hearing to determine whether or not the conditions of probation should be changed or probation should be revoked. The defendant's probation officer shall ask for the hearing if the restitution ~~or fine~~ ordered has not been paid prior to 60 days before the term of probation expires. The court shall schedule and hold this hearing and take appropriate action, including action under subdivision 2, paragraph (g), before the defendant's term of probation expires.

Nothing in this subdivision limits the court's ability to refer the case to collections under section 609.104 when a defendant fails to pay court-ordered restitution.

Sec. 46. Minnesota Statutes 2008, section 609.135, subdivision 2, is amended to read:

Subd. 2. **Stay of sentence maximum periods.** (a) If the conviction is for a felony other than section 609.21, subdivision 1a, paragraph (b) or (c), the stay shall be for not more than four years or the maximum period for which the sentence of imprisonment might have been imposed, whichever is longer.

(b) If the conviction is for a gross misdemeanor violation of section 169A.20 or 609.21, subdivision 1a, paragraph (d), or for a felony described in section 609.21, subdivision 1a, paragraph (b) or (c), the stay shall be for not more than six years. The court shall provide for unsupervised probation for the last year of the stay unless the court finds that the defendant needs supervised probation for all or part of the last year.

(c) If the conviction is for a gross misdemeanor not specified in paragraph (b), the stay shall be for not more than two years.

(d) If the conviction is for any misdemeanor under section 169A.20; 609.746, subdivision 1; 609.79; or 617.23; or for a misdemeanor under section 609.2242 or 609.224, subdivision 1, in which the victim of the crime was a family or household member as defined in section 518B.01, the stay shall be for not more than two years. The court shall provide for unsupervised probation for the second year of the stay unless the court finds that the defendant needs supervised probation for all or part of the second year.

(e) If the conviction is for a misdemeanor not specified in paragraph (d), the stay shall be for not more than one year.

(f) The defendant shall be discharged six months after the term of the stay expires, unless the stay has been revoked or extended under paragraph (g), or the defendant has already been discharged.

(g) Notwithstanding the maximum periods specified for stays of sentences under paragraphs (a) to (f), a court may extend a defendant's term of probation for up to one year if it finds, at a hearing conducted under subdivision 1a, that:

(1) the defendant has not paid court-ordered restitution ~~or a fine~~ in accordance with the payment schedule or structure; and

(2) the defendant is likely to not pay the restitution ~~or fine~~ the defendant owes before the term of probation expires.

This one-year extension of probation for failure to pay restitution ~~or a fine~~ may be extended by the court for up to one additional year if the court finds, at another hearing conducted under subdivision 1a, that the defendant still has not paid the court-ordered restitution ~~or fine~~ that the defendant owes.

Nothing in this subdivision limits the court's ability to refer the case to collections under section 609.104.

(h) Notwithstanding the maximum periods specified for stays of sentences under paragraphs (a) to (f), a court may extend a defendant's term of probation for up to three years if it finds, at a hearing conducted under subdivision 1c, that:

(1) the defendant has failed to complete court-ordered treatment successfully; and

(2) the defendant is likely not to complete court-ordered treatment before the term of probation expires.

Sec. 47. Minnesota Statutes 2008, section 611.17, is amended to read:

**611.17 FINANCIAL INQUIRY; STATEMENTS; CO-PAYMENT; STANDARDS FOR DISTRICT PUBLIC DEFENSE ELIGIBILITY.**

(a) Each judicial district must screen requests for representation by the district public defender. A defendant is financially unable to obtain counsel if:

(1) the defendant, or any dependent of the defendant who resides in the same household as the defendant, receives means-tested governmental benefits; or

(2) the defendant, through any combination of liquid assets and current income, would be unable to pay the reasonable costs charged by private counsel in that judicial district for a defense of the same matter.

(b) Upon a request for the appointment of counsel, the court shall make appropriate inquiry into the financial circumstances of the applicant, who shall submit a financial statement under oath or affirmation setting forth the applicant's assets and liabilities, including the value of any real property owned by the applicant, whether homestead or otherwise, less the amount of any encumbrances on the real property, the source or sources of income, and any other information required by the court. The applicant shall be under a continuing duty while represented by a public defender to disclose any changes in the applicant's financial circumstances that might be relevant to the applicant's eligibility for a public defender. The state public defender shall furnish appropriate forms for the financial statements. The forms must contain conspicuous notice of the applicant's continuing duty to disclose to the court changes in the applicant's financial circumstances. The forms must also contain conspicuous notice of the applicant's obligation to make a co-payment for the services of the district public defender, as specified under paragraph (c). The information contained in the statement shall be confidential and for the exclusive use of the court and the public defender appointed by the court to represent the applicant except for any prosecution under section



609.48. A refusal to execute the financial statement or produce financial records constitutes a waiver of the right to the appointment of a public defender. The court shall not appoint a district public defender to a defendant who is financially able to retain private counsel but refuses to do so.

An inquiry to determine financial eligibility of a defendant for the appointment of the district public defender shall be made whenever possible prior to the court appearance and by such persons as the court may direct. This inquiry may be combined with the prerelease investigation provided for in Minnesota Rule of Criminal Procedure 6.02, subdivision 3. In no case shall the district public defender be required to perform this inquiry or investigate the defendant's assets or eligibility. The court has the sole duty to conduct a financial inquiry. The inquiry must include the following:

- (1) the liquidity of real estate assets, including the defendant's homestead;
- (2) any assets that can be readily converted to cash or used to secure a debt;
- (3) the determination of whether the transfer of an asset is voidable as a fraudulent conveyance; and
- (4) the value of all property transfers occurring on or after the date of the alleged offense. The burden is on the accused to show that he or she is financially unable to afford counsel. Defendants who fail to provide information necessary to determine eligibility shall be deemed ineligible. The court must not appoint the district public defender as advisory counsel.

(c) Upon disposition of the case, an individual who has received public defender services shall pay to the court a ~~\$28~~ \$75 co-payment for representation provided by a public defender, unless the co-payment is, or has been, waived by the court.

The co-payment must be credited to the general fund. If a term of probation is imposed as a part of an offender's sentence, the co-payment required by this section must not be made a condition of probation. The co-payment required by this section is a civil obligation and must not be made a condition of a criminal sentence.

Sec. 48. Minnesota Statutes 2008, section 631.48, is amended to read:

**631.48 SENTENCE; COSTS OF PROSECUTION.**

In a criminal action, upon conviction of the defendant, the court may order as part of the sentence that defendant shall pay the whole or any part of the disbursements of the prosecution, including disbursements made to extradite a defendant. The court may order this payment in addition to any other penalty authorized by law which it may impose. The payment of the disbursements of prosecution may be enforced in the same manner as the sentence, or by execution against property. When collected, the disbursements ~~must be paid into the treasury of the county of conviction, but~~ of ordered prosecution costs shall be paid to the municipality or subdivision of government which employed the prosecuting attorney or otherwise provided for prosecution of the case. This payment may not interfere with the payment of officers', witnesses', or jurors' fees.

Sec. 49. **PUBLIC DEFENDER FEE.**

Subdivision 1. **Authorization.** (a) The Supreme Court, through the lawyer registration office, may assess a public defender fee on each licensed attorney in the state. If imposed, the fee must not be more than \$75 or less than the civil legal services fee established by the Supreme Court in

1997 that licensed attorneys are required to pay pursuant to the rules of the supreme court on lawyer registration.

(b) The fee described in paragraph (a) may apply only to attorneys actively engaged in the practice of law.

Subd. 2. **Creation of account.** The public defender fee account is created in the special revenue fund. The state court administrator shall forward fees collected under subdivision 1 to the commissioner of finance who shall deposit them in the state treasury and credit them to this account. Money in the account is appropriated to the Board of Public Defense.

Sec. 50. **REPEALER.**

(a) Minnesota Statutes 2008, section 152.0262, subdivision 2, is repealed effective July 1, 2009, and applies to crimes committed on or after that date.

(b) Minnesota Statutes 2008, sections 383B.65, subdivision 2; 484.90, subdivisions 1, 2, and 3; 487.08, subdivisions 1, 2, 3, and 5; and 609.135, subdivision 8, are repealed.

### ARTICLE 3

#### PUBLIC SAFETY AND CORRECTIONS

Section 1. Minnesota Statutes 2008, section 3.195, subdivision 1, is amended to read:

Subdivision 1. **Distribution of reports.** (a) Except as provided in subdivision 4, a report to the legislature required of a department or agency shall be made, unless otherwise specifically required by law, by filing one copy with the secretary of the senate, one copy with the chief clerk of the house of representatives, and six copies with the Legislative Reference Library. The same distribution procedure shall be followed for other reports and publications unless otherwise requested by a legislator or the Legislative Reference Library.

(b) A public entity as defined in section 16B.122, shall not distribute a report or publication to a member or employee of the legislature, except the secretary of the senate, the chief clerk of the house of representatives, and the Legislative Reference Library, unless the entity has determined that the member or employee wants the reports or publications published by that entity or the member or employee has requested the report or publication. This prohibition applies to both mandatory and voluntary reports and publications. A report or publication may be summarized in an executive summary and distributed as the entity chooses. Distribution of a report to legislative committee or commission members during a committee or commission hearing is not prohibited by this section.

(c) A report or publication produced by a public entity may not be sent to both the home address and the office address of a representative or senator unless mailing to both addresses is requested by the representative or senator.

(d) Reports, publications, periodicals, and summaries under this subdivision must be printed in a manner consistent with section 16B.122.

Sec. 2. Minnesota Statutes 2008, section 3.195, is amended by adding a subdivision to read:

Subd. 4. **Reports of criminal justice agencies; electronic versions only.** (a) As used in this subdivision, "criminal justice agency" means the Departments of Corrections, Public Safety, and

Human Rights; the Boards of Public Defense, Peace Officer Standards and Training, Private Detective and Protective Agent Services, and Judicial Standards; the Sentencing Guidelines and Uniform Laws Commissions; and the courts.

(b) A criminal justice agency that submits a report to the legislature under this section shall do so by submitting an electronic version rather than a printed one. Notwithstanding subdivision 1, paragraph (a), and section 15.18, the agency need submit only one electronic copy to the Legislative Reference Library, the State Library, and the Minnesota Historical Society. In addition, the agency shall submit one printed copy to the Legislative Reference Library.

Sec. 3. Minnesota Statutes 2008, section 152.025, subdivision 1, is amended to read:

Subdivision 1. **Sale crimes.** (a) A person is guilty of controlled substance crime in the fifth degree and if convicted may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both if:

(1) the person unlawfully sells one or more mixtures containing marijuana or tetrahydrocannabinols, except a small amount of marijuana for no remuneration; or

(2) the person unlawfully sells one or more mixtures containing a controlled substance classified in schedule IV.

(b) Except as provided in paragraph (c), if a person is guilty of controlled substance crime in the fifth degree and the conviction is a subsequent controlled substance conviction, the person convicted shall be committed to the commissioner of corrections or to a local correctional authority for not less than six months nor more than ten years and, in addition, may be sentenced to payment of a fine of not more than \$20,000 if:

(1) the person unlawfully sells one or more mixtures containing marijuana or tetrahydrocannabinols, except a small amount of marijuana for no remuneration; or

(2) the person unlawfully sells one or more mixtures containing a controlled substance classified in schedule IV.

(c) Prior to the time of sentencing, the prosecutor may file a motion to have the person sentenced without regard to the mandatory minimum sentence established by paragraph (b). The motion must be accompanied by a statement on the record of the reasons for it. When presented with the motion, or on its own motion, the court may sentence the person without regard to the mandatory minimum sentence if the court finds, on the record, substantial and compelling reasons to do so. Sentencing a person in this manner is a departure from the sentencing guidelines.

**EFFECTIVE DATE.** This section is effective July 1, 2009, and applies to crimes committed on or after that date.

Sec. 4. Minnesota Statutes 2008, section 152.025, subdivision 2, is amended to read:

Subd. 2. **Possession and other crimes.** (a) A person is guilty of controlled substance crime in the fifth degree and if convicted may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both if:

(1) the person unlawfully possesses one or more mixtures containing a controlled substance classified in schedule I, II, III, or IV, except a small amount of marijuana; or

(2) the person procures, attempts to procure, possesses, or has control over a controlled substance by any of the following means:

(i) fraud, deceit, misrepresentation, or subterfuge;

(ii) using a false name or giving false credit; or

(iii) falsely assuming the title of, or falsely representing any person to be, a manufacturer, wholesaler, pharmacist, physician, doctor of osteopathy licensed to practice medicine, dentist, podiatrist, veterinarian, or other authorized person for the purpose of obtaining a controlled substance.

(b) Except as provided in paragraph (c), if a person is guilty of controlled substance crime in the fifth degree and the conviction is a subsequent controlled substance conviction, the person convicted shall be committed to the commissioner of corrections or to a local correctional authority for not less than six months nor more than ten years and, in addition, may be sentenced to payment of a fine of not more than \$20,000 if:

(1) the person unlawfully possesses one or more mixtures containing a controlled substance classified in schedule I, II, III, or IV, except a small amount of marijuana; or

(2) the person procures, attempts to procure, possesses, or has control over a controlled substance by any of the following means:

(i) fraud, deceit, misrepresentation, or subterfuge;

(ii) using a false name or giving false credit; or

(iii) falsely assuming the title of, or falsely representing any person to be, a manufacturer, wholesaler, pharmacist, physician, doctor of osteopathy licensed to practice medicine, dentist, podiatrist, veterinarian, or other authorized person for the purpose of obtaining a controlled substance.

(c) Prior to the time of sentencing, the prosecutor may file a motion to have the person sentenced without regard to the mandatory minimum sentence established by paragraph (b). The motion must be accompanied by a statement on the record of the reasons for it. When presented with the motion, or on its own motion, the court may sentence the person without regard to the mandatory minimum sentence if the court finds, on the record, substantial and compelling reasons to do so. Sentencing a person in this manner is a departure from the sentencing guidelines.

**EFFECTIVE DATE.** This section is effective July 1, 2009, and applies to crimes committed on or after that date.

Sec. 5. Minnesota Statutes 2008, section 171.29, subdivision 2, is amended to read:

Subd. 2. **Reinstatement fees and surcharges allocated and appropriated.** (a) An individual whose driver's license has been revoked as provided in subdivision 1, except under section 169A.52, 169A.54, or 609.21, must pay a \$30 fee before the driver's license is reinstated.

(b) A person whose driver's license has been revoked as provided in subdivision 1 under section 169A.52, 169A.54, or 609.21, must pay a \$250 fee plus a \$430 surcharge before the driver's license is reinstated, except as provided in paragraph (f). The \$250 fee is to be credited as follows:

(1) Twenty percent must be credited to the driver services operating account in the special revenue fund as specified in section 299A.705.

(2) Sixty-seven percent must be credited to the general fund.

(3) Eight percent must be credited to a separate account to be known as the Bureau of Criminal Apprehension account. Money in this account ~~may be~~ is annually appropriated to the commissioner of public safety and the appropriated amount must be apportioned 80 percent for laboratory costs and 20 percent for carrying out the provisions of section 299C.065.

(4) Five percent must be credited to a separate account to be known as the vehicle forfeiture account, which is created in the special revenue fund. The money in the account is annually appropriated to the commissioner for costs of handling vehicle forfeitures.

(c) The revenue from \$50 of the surcharge must be credited to a separate account to be known as the traumatic brain injury and spinal cord injury account. The revenue from \$50 of the surcharge on a reinstatement under paragraph (f) is credited from the first installment payment to the traumatic brain injury and spinal cord injury account. The money in the account is annually appropriated to the commissioner of health to be used as follows: 83 percent for contracts with a qualified community-based organization to provide information, resources, and support to assist persons with traumatic brain injury and their families to access services, and 17 percent to maintain the traumatic brain injury and spinal cord injury registry created in section 144.662. For the purposes of this paragraph, a "qualified community-based organization" is a private, not-for-profit organization of consumers of traumatic brain injury services and their family members. The organization must be registered with the United States Internal Revenue Service under section 501(c)(3) as a tax-exempt organization and must have as its purposes:

(1) the promotion of public, family, survivor, and professional awareness of the incidence and consequences of traumatic brain injury;

(2) the provision of a network of support for persons with traumatic brain injury, their families, and friends;

(3) the development and support of programs and services to prevent traumatic brain injury;

(4) the establishment of education programs for persons with traumatic brain injury; and

(5) the empowerment of persons with traumatic brain injury through participation in its governance.

A patient's name, identifying information, or identifiable medical data must not be disclosed to the organization without the informed voluntary written consent of the patient or patient's guardian or, if the patient is a minor, of the parent or guardian of the patient.

(d) The remainder of the surcharge must be credited to a separate account to be known as the remote electronic alcohol-monitoring program account. The commissioner shall transfer the balance of this account to the commissioner of finance on a monthly basis for deposit in the general fund.

(e) When these fees are collected by a licensing agent, appointed under section 171.061, a handling charge is imposed in the amount specified under section 171.061, subdivision 4. The reinstatement fees and surcharge must be deposited in an approved depository as directed under

section 171.061, subdivision 4.

(f) A person whose driver's license has been revoked as provided in subdivision 1 under section 169A.52 or 169A.54 and who the court certifies as being financially eligible for a public defender under section 611.17, may choose to pay 50 percent and an additional \$25 of the total amount of the surcharge and 50 percent of the fee required under paragraph (b) to reinstate the person's driver's license, provided the person meets all other requirements of reinstatement. If a person chooses to pay 50 percent of the total and an additional \$25, the driver's license must expire after two years. The person must pay an additional 50 percent less \$25 of the total to extend the license for an additional two years, provided the person is otherwise still eligible for the license. After this final payment of the surcharge and fee, the license may be renewed on a standard schedule, as provided under section 171.27. A handling charge may be imposed for each installment payment. Revenue from the handling charge is credited to the driver services operating account in the special revenue fund and is appropriated to the commissioner.

(g) Any person making installment payments under paragraph (f), whose driver's license subsequently expires, or is canceled, revoked, or suspended before payment of 100 percent of the surcharge and fee, must pay the outstanding balance due for the initial reinstatement before the driver's license is subsequently reinstated. Upon payment of the outstanding balance due for the initial reinstatement, the person may pay any new surcharge and fee imposed under paragraph (b) in installment payments as provided under paragraph (f).

Sec. 6. Minnesota Statutes 2008, section 241.016, subdivision 1, is amended to read:

Subdivision 1. **Biennial report.** (a) The Department of Corrections shall submit a performance report to the chairs and ranking minority members of the senate and house of representatives committees and divisions having jurisdiction over criminal justice funding by January 15, 2005, and every other of each odd-numbered year thereafter. The issuance and content of the report must include the following:

- (1) department strategic mission, goals, and objectives;
- (2) the department-wide per diem, adult facility-specific per diems, and an average per diem, reported in a standard calculated method as outlined in the departmental policies and procedures;
- (3) department annual statistics as outlined in the departmental policies and procedures; and
- (4) information about prison-based mental health programs, including, but not limited to, the availability of these programs, participation rates, and completion rates.

(b) The department shall maintain recidivism rates for adult facilities on an annual basis. In addition, each year the department shall, on an alternating basis, complete a recidivism analysis of adult facilities, juvenile services, and the community services divisions and include a three-year recidivism analysis in the report described in paragraph (a). The recidivism analysis must: (1) assess education programs, vocational programs, treatment programs, including mental health programs, industry, and employment; and (2) assess statewide re-entry policies and funding, including postrelease treatment, education, training, and supervision. In addition, when reporting recidivism for the department's adult and juvenile facilities, the department shall report on the extent to which offenders it has assessed as chemically dependent commit new offenses, with separate recidivism rates reported for persons completing and not completing the department's

treatment programs.

(c) By August 31 of each odd-numbered year, the commissioner must present to the individuals identified in paragraph (a) a report that lists and describes the performance measures and targets the department will include in the biennial performance report. The measures and targets must include a budget target for the next two years and a history of the department's performance for the previous five years. At a minimum, the report must include measures and targets for the data and information identified in paragraphs (a) and (b) regarding per diem, statistics, inmate programming, and recidivism, and the following:

- (1) average statutory per diem for adult offenders, female offenders, and juvenile offenders;
- (2) the Department of Corrections field services;
- (3) staffing and salaries for both department divisions and institutions;
- (4) the use of private and local institutions to house persons committed to the commissioner;
- (5) the cost of inmate health and dental care;
- (6) implementation and use of corrections best practices; and
- (7) the challenge incarceration program.

Sec. 7. Minnesota Statutes 2008, section 241.27, subdivision 1a, is amended to read:

Subd. 1a. **Marketing plan.** ~~The commissioner of corrections, in consultation with the commissioner of employment and economic development,~~ shall develop, implement, and maintain a formal marketing plan to attract private sector businesses and industries and state and local government agencies to employ inmate services incarcerated offenders through MINNCOR industries. The plan shall be reviewed and updated annually by the commissioner of corrections.

Sec. 8. Minnesota Statutes 2008, section 241.27, is amended by adding a subdivision to read:

Subd. 6. **Reports and financial statements.** MINNCOR shall include its full costs for inmate wages and the money it receives from the department for inmate confinement costs in its annual financial statements and reports. In addition, MINNCOR shall disclose in its annual report how the money it receives from the department for inmate confinement costs affects its profitability.

Sec. 9. Minnesota Statutes 2008, section 241.27, is amended by adding a subdivision to read:

Subd. 7. **Interactions with private businesses.** (a) MINNCOR shall use revenue contracts or purchase orders on forms approved by the Department of Administration whenever it allows private businesses to use inmate labor. MINNCOR shall determine whether to use a revenue contract or a purchase order according to criteria that the Department of Corrections has approved having taken into account the recommendations of the legislative auditor contained in its 2009 report on MINNCOR.

(b) MINNCOR shall develop a uniform method to report sales and expenditure data related to individual labor arrangements with private businesses. MINNCOR shall review the data annually to assess how the arrangements, both individually and collectively, affect MINNCOR's achieving its goals of high inmate participation in industry and profitability.

Sec. 10. Minnesota Statutes 2008, section 241.27, is amended by adding a subdivision to read:

Subd. 8. **Contracts or purchase orders; work on projects before and after.** MINNCOR may not begin work on a project until a contract or purchase order has been signed and may not continue work on a project after a contract or purchase order has expired.

Sec. 11. Minnesota Statutes 2008, section 244.055, subdivision 11, is amended to read:

Subd. 11. **Sunset.** This section expires July 1, ~~2009~~ 2011.

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

Sec. 12. **[244.085] FELONY DWI REPORT.**

By January 15 of each year, the commissioner shall report to the chairs and ranking minority members of the house of representatives and senate committees having jurisdiction over criminal justice policy and funding on the implementation and effects of the felony level driving while impaired offense. The report must include the following information on felony level driving while impaired offenses involving offenders committed to the commissioner's custody:

- (1) the number of persons committed;
- (2) the county of conviction;
- (3) the offenders' ages and gender;
- (4) the offenders' prior impaired driving histories and prior criminal histories;
- (5) the number of offenders:
  - (i) given an executed prison sentence upon conviction and the length of the sentence;
  - (ii) given an executed prison sentence upon revocation of probation, the reasons for revocation, and the length of sentence;
  - (iii) who successfully complete treatment in prison;
  - (iv) placed on intensive supervision following release from incarceration;
  - (v) placed in the challenge incarceration program, the number of offenders released from prison under this program, and the number of these offenders who violate their release conditions and the consequences imposed; and
  - (vi) who violate supervised release and the consequences imposed;
- (6) per diem costs, including treatment costs, for offenders incarcerated under the felony sentence provisions; and
- (7) any other information the commissioner deems relevant to estimating future costs.

Sec. 13. Minnesota Statutes 2008, section 244.17, is amended to read:

**244.17 CHALLENGE INCARCERATION PROGRAM.**

Subdivision 1. **Generally.** The commissioner ~~may~~ shall select offenders who meet the eligibility



requirements of subdivisions 2 and 3 to participate in a challenge incarceration program described in sections 244.171 and 244.172 for all or part of the offender's sentence if the offender agrees to participate in the program and signs a written contract with the commissioner agreeing to comply with the program's requirements.

Subd. 2. **Eligibility.** (a) Unless a person is ineligible under subdivision 3, the commissioner must ~~limit~~ offer a bed in the challenge incarceration program to the following persons:

(1) offenders who are committed to the commissioner's custody following revocation of a stayed sentence; and

(2) offenders who are committed to the commissioner's custody, who have 48 months or less in or remaining in their term of imprisonment, and who did not receive a dispositional departure under the Sentencing Guidelines.

(b) If there is insufficient space for an eligible person, the commissioner shall place the person's name on a waiting list and offer the person the chance to participate when space becomes available if the person is still eligible under this section.

Subd. 3. **Offenders not eligible.** (a) The following offenders are not eligible to be placed in the challenge incarceration program:

(1) offenders who are committed to the commissioner's custody following a conviction for murder, manslaughter, criminal sexual conduct, assault, kidnapping, robbery, arson, or any other offense involving death or intentional personal injury; ~~and~~

(2) offenders who were convicted within the preceding ten years of an offense described in clause (1) and were committed to the custody of the commissioner;

(3) offenders who have been convicted or adjudicated delinquent within the past five years for a violation of section 609.485;

(4) offenders who are committed to the commissioner's custody for an offense that requires registration under section 243.166;

(5) offenders who are the subject of a current arrest warrant or detainer;

(6) offenders who have fewer than 180 days remaining until their supervised release date;

(7) offenders who have had disciplinary confinement time added to their sentence or who have been placed in segregation, unless 90 days have elapsed from the imposition of the additional disciplinary confinement time or the last day of segregation;

(8) offenders who have received a suspended formal disciplinary sanction, unless the suspension has expired;

(9) offenders whose governing sentence is for an offense from another state or the United States; and

(10) offenders who have a medical condition included on the list of ineligible conditions described in paragraph (b).

(b) The commissioner of corrections shall develop a list of medical conditions that will

disqualify an offender from participating in the challenge incarceration program. The commissioner shall submit the list and any changes to it to the chairs and ranking minority members of the senate and house committees having jurisdiction over criminal justice policy and funding.

Sec. 14. Minnesota Statutes 2008, section 244.172, subdivision 1, is amended to read:

Subdivision 1. **Phase I.** Phase I of the program lasts at least six months. The offender must be confined ~~in a state correctional facility designated by the commissioner~~ at the Minnesota Correctional Facility - Willow River/Moose Lake or the Minnesota Correctional Facility - Togo and must successfully participate in all intensive treatment, education and work programs required by the commissioner. The offender must also submit on demand to random drug and alcohol testing at time intervals set by the commissioner. Throughout phase I, the commissioner must severely restrict the offender's telephone and visitor privileges.

**Sec. 15. [244.30] CAP ON INCARCERATION FOR FIRST-TIME SUPERVISED RELEASE VIOLATIONS; EXCEPTION FOR SEX OFFENDERS.**

(a) If the commissioner revokes the supervised release of a person whose release on the current offense has not previously been revoked, the commissioner may order the person to be incarcerated for no more than 90 days or until the expiration of the person's sentence, whichever is less.

(b) This section does not apply to offenders on supervised release for a violation of section 609.342, 609.343, 609.344, 609.345, 609.3451, or 609.3453.

(c) The commissioner may order a person described in this section to be incarcerated for more than 90 days if the commissioner determines that substantial and compelling reasons exist to believe that the longer incarceration period is necessary to protect the public.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to persons whose supervised release is revoked on or after that date.

Sec. 16. Minnesota Statutes 2008, section 299A.01, subdivision 1a, is amended to read:

Subd. 1a. **Mission; efficiency.** It is part of the department's mission that within the department's resources the commissioner shall endeavor to:

- (1) prevent the waste or unnecessary spending of public money;
- (2) use innovative fiscal and human resource practices to manage the state's resources and operate the department as efficiently as possible;
- (3) coordinate the department's activities wherever appropriate with the activities of other governmental agencies;
- (4) use technology where appropriate to increase agency productivity, improve customer service, increase public access to information about government, and increase public participation in the business of government;
- (5) utilize constructive and cooperative labor-management practices to the extent otherwise required by chapters 43A and 179A; and
- ~~(6) report to the legislature on the performance of agency operations and the accomplishment of~~

~~agency goals in the agency's biennial budget according to section 16A.10, subdivision 1; and~~

~~(7)~~ (6) recommend to the legislature appropriate changes in law necessary to carry out the mission and improve the performance of the department.

Sec. 17. Minnesota Statutes 2008, section 299A.01, is amended by adding a subdivision to read:

Subd. 1c. **Performance report; performance measures and targets.** (a) The commissioner, as part of the department's mission and within the department's resources, shall report to the chairs and ranking minority members of the senate and house of representatives committees having jurisdiction over criminal justice policy and funding on the performance of agency operations and the accomplishment of agency goals in the agency's biennial budget according to paragraph (b) and section 16A.10, subdivision 1. The purpose of the report is to determine the extent to which each program is accomplishing the program's mission, goals, and objectives.

The report may address:

- (1) factors that limited or delayed achievement of objectives or goals;
- (2) resources used or saved and efficiencies achieved in reaching program objectives and goals;
- (3) information from customers and partners of the agency regarding the quality of service and effectiveness of the agency and the agency's programs;
- (4) recommendations on elimination of unnecessary or obsolete mandated reports; and
- (5) major cases, events, or circumstances that required an agency response.

(b) By August 1 of each odd-numbered year, the commissioner must present to the individuals identified in paragraph (a) a report that states the mission, goals, and objectives of each program and lists and describes the performance measures and targets the department will include in the performance report required under paragraph (a). The report must include information on how program goals and objectives were created and who participated in formulating them. The measures and targets must include a history of the department's performance for the previous five years. At a minimum, the report must include measures and targets for the following:

- (1) staffing and salaries for divisions within the agency;
- (2) caseloads and responsibilities of Bureau of Criminal Apprehension agents;
- (3) development and funding of the Allied Radio Matrix for Emergency Response (ARMER);
- (4) grant programs administered under the Office of Justice Programs and Homeland Security and Emergency Management;
- (5) receipt and expenditure of federal grant funds;
- (6) expenditure of the fire safety insurance surcharge;
- (7) emergency preparedness;
- (8) crime lab operations; and
- (9) assistance provided to crime victims.

**EFFECTIVE DATE.** This section is effective June 1, 2009.

Sec. 18. Minnesota Statutes 2008, section 299C.65, subdivision 3a, is amended to read:

Subd. 3a. **Report.** The policy group, with the assistance of the task force, shall file ~~an annual~~ a biennial report with the governor, Supreme Court, and chairs and ranking minority members of the senate and house of representatives committees and divisions with jurisdiction over criminal justice funding and policy by January 15 ~~of~~ in each odd-numbered year. The report must provide the following:

- (1) status and review of current integration efforts and projects;
- (2) recommendations concerning any legislative changes or appropriations that are needed to ensure that the criminal justice information systems operate accurately and efficiently; and
- (3) summary of the activities of the policy group and task force.

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

Sec. 19. Minnesota Statutes 2008, section 609.105, subdivision 1, is amended to read:

Subdivision 1. **Sentence to less than 180 days more than one year.** ~~In~~ A felony sentence to imprisonment, ~~when the remaining term of imprisonment is for 180 days or less, the defendant more than one year shall be committed~~ commit the defendant to the custody of the commissioner of corrections ~~and must serve the remaining term of imprisonment at a workhouse, work farm, county jail, or other place authorized by law.~~

**EFFECTIVE DATE.** This section is effective July 1, 2009, and applies to offenders sentenced on or after that date.

Sec. 20. **REPORT ON MINNCOR MARKETING PLAN.**

By September 15, 2009, the commissioner of corrections shall report to the chairs and ranking minority members of the senate and house committees and divisions having jurisdiction over criminal justice policy and funding on the marketing plan required in Minnesota Statutes, section 241.27, subdivision 1a.

Sec. 21. **REVIEW OF REPORTS.**

The Sentencing Guidelines Commission and the Departments of Corrections and Public Safety shall each review its reports for consolidation and may consider consolidating any reports with other reports to achieve administrative convenience or fiscal savings or to reduce the burden of reporting requirements. The commission and departments may not eliminate a legislatively mandated reporting requirement without prior legislative approval.

Sec. 22. **COUNTY-BASED REVOCATION CENTER PILOT PROJECT; REPORT.**

(a) Dodge, Fillmore, and Olmsted Counties; Tri-County Community Corrections; Hennepin County; Ramsey County; and any other county or community corrections department that wishes to participate may develop a proposal for a pilot project for a secure residential center for the supervision of persons facing revocation of their supervised release or execution of a stayed prison sentence. The proposal must address the care, custody, and programming for offenders assigned to

the facility as an intermediate sanction prior to revocation or execution of a stayed prison sentence.

(b) The counties must consider the following factors in developing the proposal:

(1) type and length of programming for offenders, including supervision, mental health and chemical dependency treatment options, and educational and employment readiness opportunities;

(2) medical care;

(3) the transporting of offenders to and from any facility;

(4) detailed current and future costs and per diems associated with the facility;

(5) admission and release procedures of the facility;

(6) intended outcomes of the pilot project; and

(7) other factors deemed appropriate for consideration by the counties.

(c) By December 1, 2009, any county that develops a pilot project shall report by electronic means the pilot project proposal to the chairs and ranking minority members of the senate and house of representatives committees having jurisdiction over public safety policy and funding. A written copy must be made available upon request.

**Sec. 23. CORRECTIONS STRATEGIC MANAGEMENT AND OPERATIONS ADVISORY TASK FORCE.**

Subdivision 1. **Establishment; duties.** A task force is established to advise the governor and the legislature on management and operations strategies that will improve efficiency in corrections and reduce the inmate per diem for the Department of Corrections. The task force must provide an assessment that identifies strategies and makes recommendations, including any proposals for legislative changes, to improve efficiency in (1) the delivery of state corrections services; (2) construction, maintenance, and operation of state prisons; and (3) coordination between state and local corrections agencies. In developing its assessment, the task force shall consider best practices in business management; best practices in corrections management and operations; efficiency concepts in academic, business, or other environments; and how requirements under law affect corrections efficiency. The assessment provided by the task force should include, but is not limited to, analysis of the staffing and administration of prisons; central office and administrative services staffing and operations; the impact of decisions on other agency budgets; offender treatment and programming; field services; employee pension plans; housing short-term offenders and probation violators; offender healthcare; juvenile services; and the conditional release and challenge incarceration programs.

Subd. 2. **Membership.** The advisory task force consists of the following members:

(1) the commissioner of corrections, or the commissioner's designee;

(2) one person appointed by the governor who serves as a sheriff in this state;

(3) three persons appointed by the governor from a postsecondary academic institution who have expertise in applied economics, organizational efficiency, or business management;

(4) three persons appointed by the governor from the private sector who have expertise in

management or corporate efficiency but would not qualify for membership under clause (3);

(5) one member appointed by the governor who is a community corrections act department director or a community probation office department director;

(6) two persons appointed by the speaker of the house of representatives, one of whom must be a member of organized labor and possess knowledge of corrections;

(7) one person appointed by the minority leader of the house of representatives;

(8) two persons appointed by the senate majority leader, one of whom must be a member of organized labor and possess knowledge of corrections; and

(9) one person appointed by the minority leader of the senate.

Subd. 3. **Appointment of members.** The appointments and designations authorized by this section must be completed by August 1, 2009.

Subd. 4. **Staffing support.** Upon request of the task force, the commissioner of administration must provide meeting space and administrative services. The commissioner of corrections shall provide information and other assistance as requested by the task force.

Subd. 5. **Administrative provisions.** (a) The commissioner of corrections, or the commissioner's designee, must convene the initial meeting of the task force. The members of the task force must elect a chair or co-chairs at the initial meeting.

(b) Public members of the task force serve without compensation or payment of expenses.

(c) The task force may apply for, solicit, and accept gifts and grants and is encouraged to seek technical assistance from subject matter experts affiliated with the National Institute of Corrections. Funds received under this paragraph are accepted on behalf of the state and constitute donations to the state and are appropriated to the commissioner of administration for purposes of the task force.

(d) The task force expires June 30, 2010.

Subd. 6. **Report.** By February 15, 2010, the task force shall submit a report on corrections management and operations efficiency strategies to the governor and to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over public safety policy and finance.

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

Sec. 24. **REPEALER.**

(a) Minnesota Statutes 2008, sections 260B.199, subdivision 2; 260B.201, subdivision 3; and 325E.22, are repealed effective the day following final enactment.

(b) Minnesota Statutes 2008, section 152.025, subdivision 3, is repealed effective July 1, 2009, and applies to crimes committed on or after that date.

(c) Minnesota Statutes 2008, section 609.105, subdivisions 1a and 1b, are repealed effective July 1, 2009, and apply to offenders sentenced on or after that date."

Delete the title and insert:

"A bill for an act relating to public safety; providing for the courts and public defenders including court vacancies, referees, fines and fees, surcharges, collection policies and procedures, driving while impaired, judgments, and restorative justice for juvenile petty offenders; providing for public safety and corrections including reports, controlled substance crimes, sentencing, MINNCOR, challenge incarceration program, supervised release violations, and county-based revocation center pilot project; authorizing a task force and forum; providing for penalties; appropriating money for the courts, public defenders, public safety, corrections, certain other criminal justice agencies, boards, and commissions; amending Minnesota Statutes 2008, sections 2.722, subdivisions 4, 4a; 2.724, subdivisions 2, 3; 3.195, subdivision 1, by adding a subdivision; 86B.705, subdivision 2; 134A.09, subdivision 2a; 134A.10, subdivision 3; 152.025, subdivisions 1, 2; 152.0262, subdivision 1; 169A.20, subdivision 1, by adding subdivisions; 169A.25, subdivision 1; 169A.26, subdivision 1; 169A.27, subdivision 1; 169A.28, subdivision 2; 169A.284; 169A.46, subdivision 1; 169A.54, subdivision 1; 171.29, subdivision 2; 241.016, subdivision 1; 241.27, subdivision 1a, by adding subdivisions; 244.055, subdivision 11; 244.17; 244.172, subdivision 1; 299A.01, subdivision 1a, by adding a subdivision; 299C.65, subdivision 3a; 299D.03, subdivision 5; 357.021, subdivisions 2, 6, 7; 357.022; 357.08; 364.08; 375.14; 480.15, by adding a subdivision; 484.85; 484.90, subdivision 6; 484.91, subdivision 1; 491A.02, subdivision 9; 491A.03, subdivision 1; 525.091, subdivision 1; 549.09, subdivision 1; 550.011; 609.035, subdivision 2; 609.10, subdivision 1; 609.101, subdivisions 3, 4; 609.105, subdivision 1; 609.125, subdivision 1; 609.135, subdivisions 1, 1a, 2; 611.17; 631.48; proposing coding for new law in Minnesota Statutes, chapters 244; 609; repealing Minnesota Statutes 2008, sections 152.025, subdivision 3; 152.0262, subdivision 2; 260B.199, subdivision 2; 260B.201, subdivision 3; 325E.22; 383B.65, subdivision 2; 484.90, subdivisions 1, 2, 3; 487.08, subdivisions 1, 2, 3, 5; 609.105, subdivisions 1a, 1b; 609.135, subdivision 8."

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

Senate Conferees: (Signed) Linda Higgins, Leo Foley, Mary Olson

House Conferees: (Signed) Michael Paymar, Debra Hilstrom, Tina Liebling, John Lesch

Senator Higgins moved that the foregoing recommendations and Conference Committee Report on S.F. No. 802 be now adopted, and that the bill be repassed as amended by the Conference Committee.

### CALL OF THE SENATE

Senator Limmer imposed a call of the Senate for the balance of the proceedings on S.F. No. 802. The Sergeant at Arms was instructed to bring in the absent members.

Senator Limmer moved that the recommendations and Conference Committee Report on S.F. No. 802 be rejected and that the bill be re-referred to the Conference Committee as formerly constituted for further consideration.

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 19 and nays 45, as follows:

Those who voted in the affirmative were:

Day	Hann	Koch	Olson, G.	Rosen
Dille	Ingebrigtsen	Koering	Ortman	Senjem
Frederickson	Johnson	Limmer	Pariseau	Vandev eer
Gerlach	Jungbauer	Michel	Robling	

Those who voted in the negative were:

Anderson	Dahle	Langseth	Pappas	Sieben
Bakk	Dibble	Latz	Pogemiller	Skoe
Berglin	Doll	Lourey	Prettner Solon	Skogen
Betzold	Erickson Ropes	Lynch	Rest	Sparks
Bonoff	Fobbe	Marty	Rummel	Stumpf
Carlson	Foley	Metzen	Saltzman	Tomassoni
Chaudhary	Higgins	Moua	Saxhaug	Torres Ray
Clark	Kelash	Olseen	Scheid	Vickerman
Cohen	Kubly	Olson, M.	Sheran	Wiger

The motion did not prevail.

The question recurred on the Higgins motion. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 802 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 36 and nays 30, as follows:

Those who voted in the affirmative were:

Anderson	Dahle	Lynch	Saxhaug	Tomassoni
Bakk	Dibble	Marty	Scheid	Torres Ray
Berglin	Foley	Metzen	Sheran	Vickerman
Betzold	Higgins	Olseen	Sieben	Wiger
Bonoff	Kelash	Olson, M.	Skoe	
Carlson	Kubly	Pappas	Skogen	
Clark	Langseth	Pogemiller	Sparks	
Cohen	Lourey	Rest	Stumpf	

Those who voted in the negative were:

Chaudhary	Fobbe	Johnson	Michel	Robling
Day	Frederickson	Jungbauer	Moua	Rosen
Dille	Gerlach	Koch	Olson, G.	Rummel
Doll	Gimse	Koering	Ortman	Saltzman
Erickson Ropes	Hann	Latz	Pariseau	Senjem
Fischbach	Ingebrigtsen	Limmer	Prettner Solon	Vandev eer

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

### RECESS

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

### CALL OF THE SENATE

Senator Pogemiller imposed a call of the Senate. The Sergeant at Arms was instructed to bring



in the absent members.

### **MOTIONS AND RESOLUTIONS - CONTINUED**

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Introduction and First Reading of Senate Bills.

### **INTRODUCTION AND FIRST READING OF SENATE BILLS**

**Senators Pogemiller, for the Committee on Rules and Administration, introduced—**

**S.F. No. 2141:** A bill for an act relating to finance; appropriating money to continue operations of a state agency if the major appropriation bill to fund that agency has not been enacted by July 1, 2009.

Senator Pogemiller moved that S.F. No. 2141 be laid on the table. The motion prevailed.

### **MOTIONS AND RESOLUTIONS - CONTINUED**

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Orders of Business of Messages From the House and First Reading of House Bills.

### **MESSAGES FROM THE HOUSE**

Mr. President:

I have the honor to announce the passage by the House of the following House File, herewith transmitted: H.F. No. 1988.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 11, 2009

### **FIRST READING OF HOUSE BILLS**

The following bill was read the first time.

**H.F. No. 1988:** A bill for an act relating to human services; requiring managed care plans and county-based purchasing plans to report provider payment rate data; requiring the commissioner to analyze the plans' data; requiring a report; amending Minnesota Statutes 2008, section 256B.69, subdivision 9b.

Senator Pogemiller moved that H.F. No. 1988 be laid on the table. The motion prevailed.

**MOTIONS AND RESOLUTIONS - CONTINUED**

Senator Pogemiller moved that S.F. No. 2141 be taken from the table. The motion prevailed.

**S.F. No. 2141:** A bill for an act relating to finance; appropriating money to continue operations of a state agency if the major appropriation bill to fund that agency has not been enacted by July 1, 2009.

**CALL OF THE SENATE**

Senator Pogemiller imposed a call of the Senate for the balance of the proceedings on S.F. No. 2141. The Sergeant at Arms was instructed to bring in the absent members.

**SUSPENSION OF RULES**

Senator Pogemiller moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to S.F. No. 2141 and that the rules of the Senate be so far suspended as to give S.F. No. 2141 its second and third reading and place it on its final passage.

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 45 and nays 18, as follows:

Those who voted in the affirmative were:

Anderson	Dahle	Langseth	Pappas	Sieben
Bakk	Dibble	Latz	Pogemiller	Skoe
Berglin	Doll	Lourey	Prettner Solon	Skogen
Betzold	Erickson Ropes	Lynch	Rest	Sparks
Bonoff	Fobbe	Marty	Rummel	Stumpf
Carlson	Foley	Metzen	Saltzman	Tomassoni
Chaudhary	Higgins	Moua	Saxhaug	Torres Ray
Clark	Kelash	Olseen	Scheid	Vickerman
Cohen	Kubly	Olson, M.	Sheran	Wiger

Those who voted in the negative were:

Day	Hann	Koch	Ortman	Senjem
Dille	Ingebrigtsen	Koering	Pariseau	Vandever
Gerlach	Johnson	Limmer	Robling	
Gimse	Jungbauer	Olson, G.	Rosen	

The motion prevailed.

S.F. No. 2141 was read the second time.

S.F. No. 2141 was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 45 and nays 19, as follows:

Those who voted in the affirmative were:

Anderson	Bakk	Berglin	Betzold	Bonoff
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Carlson	Fobbe	Lynch	Pogemiller	Sieben
Chaudhary	Foley	Marty	Prettner Solon	Skoe
Clark	Higgins	Metzen	Rest	Skogen
Cohen	Kelash	Moua	Rummel	Sparks
Dahle	Kubly	Murphy	Saltzman	Stumpf
Dibble	Langseth	Olseen	Saxhaug	Torres Ray
Doll	Latz	Olson, M.	Scheid	Vickerman
Erickson Ropes	Lourey	Pappas	Sheran	Wiger

Those who voted in the negative were:

Day	Gimse	Jungbauer	Olson, G.	Rosen
Dille	Hann	Koch	Ortman	Senjem
Frederickson	Ingebrigtsen	Koering	Pariseau	Vandever
Gerlach	Johnson	Limmer	Robling	

So the bill passed and its title was agreed to.

### MOTIONS AND RESOLUTIONS - CONTINUED

Senator Vandever moved that the Senate do now adjourn until February 1, 2010.

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 3 and nays 52, as follows:

Those who voted in the affirmative were:

Limmer	Ortman	Vandever
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Those who voted in the negative were:

Bakk	Fobbe	Koering	Pariseau	Sieben
Berglin	Foley	Kubly	Pogemiller	Skoe
Betzold	Frederickson	Langseth	Prettner Solon	Skogen
Carlson	Gerlach	Latz	Rest	Sparks
Chaudhary	Gimse	Lourey	Robling	Tomassoni
Clark	Hann	Lynch	Rosen	Torres Ray
Cohen	Higgins	Marty	Rummel	Vickerman
Dahle	Ingebrigtsen	Metzen	Saltzman	Wiger
Dibble	Johnson	Moua	Saxhaug	
Doll	Kelash	Murphy	Senjem	
Erickson Ropes	Koch	Olseen	Sheran	

The motion did not prevail.

### MOTIONS AND RESOLUTIONS - CONTINUED

Senator Pogemiller moved that H.F. No. 1988 be taken from the table. The motion prevailed.

**H.F. No. 1988:** A bill for an act relating to human services; requiring managed care plans and county-based purchasing plans to report provider payment rate data; requiring the commissioner to analyze the plans' data; requiring a report; amending Minnesota Statutes 2008, section 256B.69, subdivision 9b.

### SUSPENSION OF RULES

Senator Pogemiller moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 1988 and that the rules of the Senate be so far suspended as to give H.F. No. 1988 its second and third reading and place it on its final passage. The motion prevailed.

H.F. No. 1988 was read the second time.

Senator Berglin moved to amend H.F. No. 1988 as follows:

Delete everything after the enacting clause, and delete the title, of H.F. No. 1988, and insert the language after the enacting clause, and the title, of S.F. No. 1924, the first engrossment.

The motion prevailed. So the amendment was adopted.

H.F. No. 1988 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 49 and nays 13, as follows:

Those who voted in the affirmative were:

Anderson	Dibble	Koering	Olson, M.	Sieben
Bakk	Dille	Kubly	Pogemiller	Skoe
Berglin	Doll	Langseth	Prettner Solon	Skogen
Betzold	Erickson Ropes	Latz	Rosen	Sparks
Bonoff	Fobbe	Lourey	Rummel	Stumpf
Carlson	Foley	Lynch	Saltzman	Tomassoni
Chaudhary	Frederickson	Marty	Saxhaug	Torres Ray
Clark	Gimse	Moua	Scheid	Vickerman
Cohen	Higgins	Murphy	Senjem	Wiger
Dahle	Kelash	Olseen	Sheran	

Those who voted in the negative were:

Day	Ingebrigtsen	Koch	Ortman	Vandever
Gerlach	Johnson	Limmer	Pariseau	
Hann	Jungbauer	Michel	Robling	

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

### MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

### MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1362, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1362 is herewith transmitted to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 11, 2009

### CONFERENCE COMMITTEE REPORT ON H. F. NO. 1362

A bill for an act relating to state government; establishing the health and human services budget; making changes to licensing; Minnesota family investment program, children, and adult supports; child support; the Department of Health; health care programs; making technical changes; chemical and mental health; continuing care programs; establishing the State-County Results, Accountability, and Service Delivery Redesign; public health; health-related fees; making forecast adjustments; creating work groups and pilot projects; requiring reports; decreasing provider reimbursements; increasing fees; appropriating money to various state agencies for health and human services provisions; amending Minnesota Statutes 2008, sections 62J.495; 62J.496; 62J.497, subdivisions 1, 2, by adding subdivisions; 62J.692, subdivision 7; 103I.208, subdivision 2; 125A.744, subdivision 3; 144.0724, subdivisions 2, 4, 8, by adding subdivisions; 144.121, subdivisions 1a, 1b; 144.122; 144.1222, subdivision 1a; 144.125, subdivision 1; 144.226, subdivision 4; 144.72, subdivisions 1, 3; 144.9501, subdivisions 22b, 26a, by adding subdivisions; 144.9505, subdivisions 1g, 4; 144.9508, subdivisions 2, 3, 4; 144.9512, subdivision 2; 144.966, by adding a subdivision; 144.97, subdivisions 2, 4, 6, by adding subdivisions; 144.98, subdivisions 1, 2, 3, by adding subdivisions; 144.99, subdivision 1; 144A.073, by adding a subdivision; 144A.44, subdivision 2; 144A.46, subdivision 1; 148.108; 148.6445, by adding a subdivision; 148D.180, subdivisions 1, 2, 3, 5; 148E.180, subdivisions 1, 2, 3, 5; 153A.17; 156.015; 157.15, by adding a subdivision; 157.16; 157.22; 176.011, subdivision 9; 245.462, subdivision 18; 245.470, subdivision 1; 245.4871, subdivision 27; 245.488, subdivision 1; 245.4885, subdivision 1; 245A.03, by adding a subdivision; 245A.10, subdivisions 2, 3, 4, 5, by adding subdivisions; 245A.11, subdivision 2a, by adding a subdivision; 245A.16, subdivisions 1, 3; 245C.03, subdivision 2; 245C.04, subdivisions 1, 3; 245C.05, subdivision 4; 245C.08, subdivision 2; 245C.10, subdivision 3, by adding subdivisions; 245C.17, by adding a subdivision; 245C.20; 245C.21, subdivision 1a; 245C.23, subdivision 2; 246.50, subdivision 5, by adding subdivisions; 246.51, by adding subdivisions; 246.511; 246.52; 246B.01, by adding subdivisions; 252.46, by adding a subdivision; 252.50, subdivision 1; 254A.02, by adding a subdivision; 254A.16, by adding a subdivision; 254B.03, subdivisions 1, 3, by adding a subdivision; 254B.05, subdivision 1; 254B.09, subdivision 2; 256.01, subdivision 2b, by adding subdivisions; 256.045, subdivision 3; 256.476, subdivisions 5, 11; 256.962, subdivisions 2, 6; 256.963, by adding a subdivision; 256.969, subdivision 3a; 256.975, subdivision 7; 256.983, subdivision 1; 256B.04, subdivision 16; 256B.055, subdivisions 7, 12; 256B.056, subdivisions 3, 3b, 3c, by adding a subdivision; 256B.057, subdivisions 3, 9, by adding a subdivision; 256B.0575; 256B.0595, subdivisions 1, 2; 256B.06, subdivisions 4, 5; 256B.0621, subdivision 2; 256B.0622, subdivision 2; 256B.0623, subdivision 5; 256B.0624, subdivisions 5, 8; 256B.0625, subdivisions 3c, 7, 8, 8a, 9, 13e, 17, 19a, 19c, 26, 41, 42, 47; 256B.0631, subdivision 1; 256B.0641, subdivision 3; 256B.0651; 256B.0652; 256B.0653; 256B.0654; 256B.0655, subdivisions 1b, 4; 256B.0657, subdivisions 2, 6, 8, by adding a subdivision; 256B.08, by adding a subdivision; 256B.0911, subdivisions 1, 1a, 3, 3a, 4a, 5, 6, 7, by adding subdivisions; 256B.0913, subdivision 4; 256B.0915, subdivisions 3e, 3h, 5, by adding a subdivision; 256B.0916, subdivision 2; 256B.0917, by

adding a subdivision; 256B.092, subdivision 8a, by adding subdivisions; 256B.0943, subdivision 1; 256B.0944, by adding a subdivision; 256B.0945, subdivision 4; 256B.0947, subdivision 1; 256B.15, subdivisions 1, 1a, 1h, 2, by adding subdivisions; 256B.37, subdivisions 1, 5; 256B.434, by adding a subdivision; 256B.437, subdivision 6; 256B.441, subdivisions 48, 55, by adding subdivisions; 256B.49, subdivisions 12, 13, 14, 17, by adding subdivisions; 256B.501, subdivision 4a; 256B.5011, subdivision 2; 256B.5012, by adding a subdivision; 256B.5013, subdivision 1; 256B.69, subdivisions 5a, 5c, 5f; 256B.76, subdivisions 1, 4, by adding a subdivision; 256B.761; 256D.024, by adding a subdivision; 256D.03, subdivision 4; 256D.051, subdivision 2a; 256D.0515; 256D.06, subdivision 2; 256D.09, subdivision 6; 256D.44, subdivision 5; 256D.49, subdivision 3; 256G.02, subdivision 6; 256I.03, subdivision 7; 256I.05, subdivisions 1a, 7c; 256J.08, subdivision 73a; 256J.20, subdivision 3; 256J.24, subdivisions 5a, 10; 256J.26, by adding a subdivision; 256J.37, subdivision 3a, by adding a subdivision; 256J.38, subdivision 1; 256J.45, subdivision 3; 256J.49, subdivision 13; 256J.575, subdivisions 3, 6, 7; 256J.621; 256J.626, subdivision 6; 256J.751, by adding a subdivision; 256J.95, subdivision 12; 256L.04, subdivision 10a, by adding a subdivision; 256L.05, subdivision 1, by adding subdivisions; 256L.11, subdivisions 1, 7; 256L.12, subdivision 9; 256L.17, subdivision 3; 259.67, by adding a subdivision; 270A.09, by adding a subdivision; 295.52, by adding a subdivision; 327.14, by adding a subdivision; 327.15; 327.16; 327.20, subdivision 1, by adding a subdivision; 393.07, subdivision 10; 501B.89, by adding a subdivision; 518A.53, subdivisions 1, 4, 10; 519.05; 604A.33, subdivision 1; 609.232, subdivision 11; 626.556, subdivision 3c; 626.5572, subdivisions 6, 13, 21; Laws 2003, First Special Session chapter 14, article 13C, section 2, subdivision 1, as amended; Laws 2007, chapter 147, article 19, section 3, subdivision 4, as amended; proposing coding for new law in Minnesota Statutes, chapters 62A; 62Q; 156; 246B; 254B; 256; 256B; proposing coding for new law as Minnesota Statutes, chapter 402A; repealing Minnesota Statutes 2008, sections 62U.08; 103I.112; 144.9501, subdivision 17b; 148D.180, subdivision 8; 246.51, subdivision 1; 246.53, subdivision 3; 256.962, subdivision 7; 256B.0655, subdivisions 1, 1a, 1c, 1d, 1e, 1f, 1g, 1h, 1i, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13; 256B.071, subdivisions 1, 2, 3, 4; 256B.092, subdivision 5a; 256B.19, subdivision 1d; 256B.431, subdivision 23; 256D.46; 256I.06, subdivision 9; 256J.626, subdivision 7; 327.14, subdivisions 5, 6; Laws 1988, chapter 689, section 251; Minnesota Rules, parts 4626.2015, subpart 9; 9100.0400, subparts 1, 3; 9100.0500; 9100.0600; 9500.1243, subpart 3; 9500.1261, subparts 3, 4, 5, 6; 9555.6125, subpart 4, item B.

May 10, 2009

The Honorable Margaret Anderson Kelliher  
Speaker of the House of Representatives

The Honorable James P. Metzen  
President of the Senate

We, the undersigned conferees for H. F. No. 1362 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H. F. No. 1362 be further amended as follows:

Delete everything after the enacting clause and insert:

**"ARTICLE 1**

**LICENSING**

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 ~~waivered~~ residential-based habilitation services to persons with developmental disabilities or related conditions under chapter 245B, an applicant shall submit an application for each county in which the ~~waivered~~ 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. The license issued by the commissioner must state the name of each additional county where services are being provided to persons with developmental disabilities. A license holder must notify the commissioner before making any changes that would alter the license information listed under section 245A.04, subdivision 7, paragraph (a), including any additional counties where persons with developmental disabilities are being served.

(2) For a license to provide supported employment, crisis respite, or semi-independent living services to persons with developmental disabilities or related conditions under chapter 245B, 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, subdivision 2a, is amended to read:

**Subd. 2a. Adult foster care license capacity.** The commissioner shall issue adult foster care licenses with a maximum licensed capacity of four beds, including nonstaff roomers and boarders, except that the commissioner may issue a license with a capacity of five beds, including roomers and boarders, according to paragraphs (a) to (e).

(a) An adult foster care license holder may have a maximum license capacity of five if all persons in care are age 55 or over and do not have a serious and persistent mental illness or a developmental disability.

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

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

(d) ~~Notwithstanding paragraph (a),~~ If the 2009 legislature adopts a rate reduction that impacts providers of adult foster care services, the commissioner may issue an adult foster care license with a capacity of five adults if the fifth bed does not increase the overall statewide capacity of



licensed adult foster care beds in homes that are not the primary residence of the license holder, over the licensed capacity in such homes on July 1, 2009, as identified in a plan submitted to the commissioner by the county, when the capacity is recommended by the county licensing agency of the county in which the facility is located and if the recommendation verifies that:

- (1) the facility meets the physical environment requirements in the adult foster care licensing rule;
- (2) the five-bed living arrangement is specified for each resident in the resident's:
  - (i) individualized plan of care;
  - (ii) individual service plan under section 256B.092, subdivision 1b, if required; or
  - (iii) individual resident placement agreement under Minnesota Rules, part 9555.5105, subpart 19, if required;
- (3) the license holder obtains written and signed informed consent from each resident or resident's legal representative documenting the resident's informed choice to living in the home and that the resident's refusal to consent would not have resulted in service termination; and
- (4) the facility was licensed for adult foster care before March 1, ~~2003~~ 2009.
- (e) The commissioner shall not issue a new adult foster care license under paragraph (d) after June 30, ~~2005~~ 2011. The commissioner shall allow a facility with an adult foster care license issued under paragraph (d) before June 30, ~~2005~~ 2011, to continue with a capacity of five adults if the license holder continues to comply with the requirements in paragraph (d).

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 4. Minnesota Statutes 2008, section 245A.11, is amended by adding a subdivision to read:

Subd. 7a. **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 the facility is under electronic monitoring; 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 (d) through (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 paragraph (e), 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 paragraph (e), 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 paragraph (e), 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 paragraph (e), 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 of the foster care recipient. Requiring the foster care recipient to initiate 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 under item (i) 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 (e), 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 (e);

(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. A foster care recipient may not be removed from a program under this subdivision for failure to consent to electronic monitoring. 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 (d) through (h), license holder has the meaning under section 245A.2, subdivision 9, and additionally includes all staff, volunteers, and contractors affiliated with the license holder.

(j) For the purposes of paragraph (e), the terms "assess" and "assessing" mean to remotely determine what action the license holder needs to take to protect the well-being of the foster care recipient.

Sec. 5. Minnesota Statutes 2008, section 245A.11, is amended by adding a subdivision to read:

Subd. 8b. **Adult foster care data privacy and security.** (a) An adult foster care license holder who creates, collects, records, maintains, stores, or discloses any individually identifiable recipient data, whether in an electronic or any other format, must comply with the privacy and security provisions of applicable privacy laws and regulations, including:

(1) the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-1; and the HIPAA Privacy Rule, Code of Federal Regulations, title 45, part 160, and subparts A and E of part 164; and

(2) the Minnesota Government Data Practices Act as codified in chapter 13.

(b) For purposes of licensure, the license holder shall be monitored for compliance with the following data privacy and security provisions:

(1) the license holder must control access to data on foster care recipients according to the definitions of public and private data on individuals under section 13.02; classification of the data on individuals as private under section 13.46, subdivision 2; and control over the collection, storage, use, access, protection, and contracting related to data according to section 13.05, in which the license holder is assigned the duties of a government entity;

(2) the license holder must provide each foster care recipient with a notice that meets the requirements under section 13.04, in which the license holder is assigned the duties of the government entity, and that meets the requirements of Code of Federal Regulations, title 45, part 164.52. The notice shall describe the purpose for collection of the data, and to whom and why it may be disclosed pursuant to law. The notice must inform the recipient that the license holder uses electronic monitoring and, if applicable, that recording technology is used;

(3) the license holder must not install monitoring cameras in bathrooms;

(4) electronic monitoring cameras must not be concealed from the foster care recipients; and

(5) electronic video and audio recordings of foster care recipients shall not be stored by the license holder for more than five days.

(c) The commissioner shall develop, and make available to license holders and county licensing

workers, a checklist of the data privacy provisions to be monitored for purposes of licensure.

Sec. 6. 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. 7. 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. 8. 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 or family adult day services license: (1) 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), for background studies conducted by the commissioner for adult foster care and family adult day services when

the license holder resides in the adult foster care or family adult day services residence; (2) the license holder 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), for background studies conducted by the commissioner for adult foster care when the license holder does not reside in the adult foster care residence; and (3) 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 or family adult day services license holder: (1) 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), for background studies conducted by the commissioner for adult foster care and family adult day services when the license holder resides in the adult foster care or family adult day services residence; (2) the license holder 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), for background studies conducted by the commissioner for adult foster care when the license holder does not reside in the adult foster care residence; and (3) 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. 9. Minnesota Statutes 2008, section 245C.05, is amended by adding a subdivision to read:

Subd. 2b. **County agency to collect and forward information to the commissioner.** For background studies related to adult foster care and family adult day services when the license holder resides in the adult foster care or family adult day services residence, the county agency must collect the information required under subdivision 1 and forward it to the commissioner.

Sec. 10. 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 and family adult day services.

Sec. 11. 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. 12. 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 and family adult day services 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. 13. Minnesota Statutes 2008, section 245C.10, is amended by adding a subdivision to read:

Subd. 8. **Private agencies.** The commissioner shall recover the cost of conducting background studies under section 245C.33 for studies initiated by private agencies for the purpose of adoption through a fee of no more than \$70 per study charged to the private agency. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

Sec. 14. 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 and family adult day services, the commissioner shall also provide a notice of the background study results to the county agency that initiated the background study.

Sec. 15. 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. 16. 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 for disqualifications related to studies conducted by the commissioner for child foster care, adult foster care, and family adult day services, 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.

~~(e)~~ (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. 17. 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 and family adult day services, the commissioner shall also notify the county that initiated the study of the results of the reconsideration.

Sec. 18. Minnesota Statutes 2008, section 256B.092, is amended by adding a subdivision to read:

Subd. 5b. **Revised per diem based on legislated rate reduction.** Notwithstanding section 252.28, subdivision 3, paragraph (d), if the 2009 legislature adopts a rate reduction that impacts payment to providers of adult foster care services, the commissioner may issue adult foster care licenses that permit a capacity of five adults. The application for a five-bed license must meet the requirements of section 245A.11, subdivision 2a. Prior to admission of the fifth recipient of adult foster care services, the county must negotiate a revised per diem rate for room and board and waiver services that reflects the legislated rate reduction and results in an overall average per diem reduction for all foster care recipients in that home. The revised per diem must allow the provider to maintain, as much as possible, the level of services or enhanced services provided in the residence, while mitigating the losses of the legislated rate reduction.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 19. Minnesota Statutes 2008, section 256B.49, subdivision 17, is amended to read:

Subd. 17. **Cost of services and supports.** (a) The commissioner shall ensure that the average per capita expenditures estimated in any fiscal year for home and community-based waiver recipients does not exceed the average per capita expenditures that would have been made to provide institutional services for recipients in the absence of the waiver.

(b) The commissioner shall implement on January 1, 2002, one or more aggregate, need-based methods for allocating to local agencies the home and community-based waived service resources available to support recipients with disabilities in need of the level of care provided in a nursing facility or a hospital. The commissioner shall allocate resources to single counties and county partnerships in a manner that reflects consideration of:

- (1) an incentive-based payment process for achieving outcomes;
- (2) the need for a state-level risk pool;
- (3) the need for retention of management responsibility at the state agency level; and
- (4) a phase-in strategy as appropriate.

(c) Until the allocation methods described in paragraph (b) are implemented, the annual allowable reimbursement level of home and community-based waiver services shall be the greater of:

- (1) the statewide average payment amount which the recipient is assigned under the waiver reimbursement system in place on June 30, 2001, modified by the percentage of any provider rate

increase appropriated for home and community-based services; or

(2) an amount approved by the commissioner based on the recipient's extraordinary needs that cannot be met within the current allowable reimbursement level. The increased reimbursement level must be necessary to allow the recipient to be discharged from an institution or to prevent imminent placement in an institution. The additional reimbursement may be used to secure environmental modifications; assistive technology and equipment; and increased costs for supervision, training, and support services necessary to address the recipient's extraordinary needs. The commissioner may approve an increased reimbursement level for up to one year of the recipient's relocation from an institution or up to six months of a determination that a current waiver recipient is at imminent risk of being placed in an institution.

(d) Beginning July 1, 2001, medically necessary private duty nursing services will be authorized under this section as complex and regular care according to sections 256B.0651 and 256B.0653 to 256B.0656. The rate established by the commissioner for registered nurse or licensed practical nurse services under any home and community-based waiver as of January 1, 2001, shall not be reduced.

(e) Notwithstanding section 252.28, subdivision 3, paragraph (d), if the 2009 legislature adopts a rate reduction that impacts payment to providers of adult foster care services, the commissioner may issue adult foster care licenses that permit a capacity of five adults. The application for a five-bed license must meet the requirements of section 245A.11, subdivision 2a. Prior to admission of the fifth recipient of adult foster care services, the county must negotiate a revised per diem rate for room and board and waiver services that reflects the legislated rate reduction and results in an overall average per diem reduction for all foster care recipients in that home. The revised per diem must allow the provider to maintain, as much as possible, the level of services or enhanced services provided in the residence, while mitigating the losses of the legislated rate reduction.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 20. **WAIVER.**

By December 1, 2009, the commissioner shall request all federal approvals and waiver amendments to the disability home and community-based waivers to allow properly licensed adult foster care homes to provide residential services for up to five individuals.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 21. **REPEALER.**

(a) Minnesota Statutes 2008, section 245C.11, subdivisions 1 and 2, are repealed.

(b) Minnesota Statutes 2008, section 256B.092, subdivision 5a, is repealed effective July 1, 2009.

(c) Minnesota Rules, part 9555.6125, subpart 4, item B, is repealed.

## ARTICLE 2

### MFIP/CHILD CARE/ADULT SUPPORTS/FRAUD PREVENTION

Section 1. Minnesota Statutes 2008, section 119B.09, subdivision 7, is amended to read:

Subd. 7. **Date of eligibility for assistance.** (a) The date of eligibility for child care assistance under this chapter is the later of the date the application was signed; the beginning date of employment, education, or training; the date the infant is born for applicants to the at-home infant care program; or the date a determination has been made that the applicant is a participant in employment and training services under Minnesota Rules, part 3400.0080, or chapter 256J.

(b) Payment ceases for a family under the at-home infant child care program when a family has used a total of 12 months of assistance as specified under section 119B.035. Payment of child care assistance for employed persons on MFIP is effective the date of employment or the date of MFIP eligibility, whichever is later. Payment of child care assistance for MFIP or DWP participants in employment and training services is effective the date of commencement of the services or the date of MFIP or DWP eligibility, whichever is later. Payment of child care assistance for transition year child care must be made retroactive to the date of eligibility for transition year child care.

(c) Notwithstanding paragraph (b), payment of child care assistance for participants eligible under section 119B.05 may only be made retroactive for a maximum of six months from the date of application for child care assistance.

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

Sec. 2. Minnesota Statutes 2008, section 119B.13, subdivision 6, is amended to read:

Subd. 6. **Provider payments.** (a) Counties or the state shall make vendor payments to the child care provider or pay the parent directly for eligible child care expenses.

(b) If payments for child care assistance are made to providers, the provider shall bill the county for services provided within ten days of the end of the service period. If bills are submitted within ten days of the end of the service period, a county or the state shall issue payment to the provider of child care under the child care fund within 30 days of receiving a bill from the provider. Counties or the state may establish policies that make payments on a more frequent basis.

(c) All bills If a provider has received an authorization of care and been issued a billing form for an eligible family, the bill must be submitted within 60 days of the last date of service on the bill. A county may pay a bill submitted more than 60 days after the last date of service if the provider shows good cause why the bill was not submitted within 60 days. Good cause must be defined in the county's child care fund plan under section 119B.08, subdivision 3, and the definition of good cause must include county error. A county may not pay any bill submitted more than a year after the last date of service on the bill.

(d) If a provider provided care for a time period without receiving an authorization of care and a billing form for an eligible family, payment of child care assistance may only be made retroactively for a maximum of six months from the date the provider is issued an authorization of care and billing form.

(e) A county may stop payment issued to a provider or may refuse to pay a bill submitted by a provider if:

(1) the provider admits to intentionally giving the county materially false information on the provider's billing forms; or

(2) a county finds by a preponderance of the evidence that the provider intentionally gave the

county materially false information on the provider's billing forms.

~~(e)~~ (f) A county's payment policies must be included in the county's child care plan under section 119B.08, subdivision 3. If payments are made by the state, in addition to being in compliance with this subdivision, the payments must be made in compliance with section 16A.124.

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

Sec. 3. Minnesota Statutes 2008, section 119B.21, subdivision 5, is amended to read:

Subd. 5. **Child care services grants.** (a) A child care resource and referral program designated under section 119B.19, subdivision 1a, may award child care services grants for:

(1) creating new licensed child care facilities and expanding existing facilities, including, but not limited to, supplies, equipment, facility renovation, and remodeling;

(2) improving licensed child care facility programs;

(3) staff training and development services including, but not limited to, in-service training, curriculum development, accreditation, certification, consulting, resource centers, program and resource materials, supporting effective teacher-child interactions, child-focused teaching, and content-driven classroom instruction;

(4) interim financing;

(5) capacity building through the purchase of appropriate technology to create, enhance, and maintain business management systems;

(6) emergency assistance for child care programs;

(7) new programs or projects for the creation, expansion, or improvement of programs that serve ethnic immigrant and refugee communities; and

(8) targeted recruitment initiatives to expand and build the capacity of the child care system and to improve the quality of care provided by legal nonlicensed child care providers.

(b) A child care resource and referral program designated under section 119B.19, subdivision 1a, may award child care services grants to:

(1) licensed providers;

(2) providers in the process of being licensed;

(3) corporations or public agencies that develop or provide child care services;

(4) school-age care programs;

(5) legal nonlicensed or family, friend, and neighbor care providers; or

(6) any combination of clauses (1) to (5).

(c) A recipient of a child care services grant for facility improvements, interim financing, or staff training and development must provide a 25 percent local match.

(d) Beginning July 1, 2009, grants under this subdivision shall be increasingly awarded for

activities that improve provider quality, including activities under paragraph (a), clauses (1) to (3) and (7).

Sec. 4. Minnesota Statutes 2008, section 119B.21, subdivision 10, is amended to read:

Subd. 10. **Family child care technical assistance grants.** (a) A child care resource and referral organization designated under section 119B.19, subdivision 1a, may award technical assistance grants of up to \$1,000. These grants may be used for:

(1) facility improvements, including, but not limited to, improvements to meet licensing requirements;

(2) improvements to expand a child care facility or program;

(3) toys, materials, and equipment to improve the learning environment;

(4) technology and software to create, enhance, and maintain business management systems;

(5) start-up costs;

(6) staff training and development; and

(7) other uses approved by the commissioner.

(b) A child care resource and referral program may award family child care technical assistance grants to:

(1) licensed family child care providers;

(2) child care providers in the process of becoming licensed; or

(3) legal nonlicensed or family, friend, and neighbor care providers.

(c) A local match is not required for a family child care technical assistance grant.

(d) Beginning July 1, 2009, grants under this subdivision shall be increasingly awarded for activities that improve provider quality, including activities under paragraph (a), clauses (1), (3), and (6).

Sec. 5. Minnesota Statutes 2008, section 119B.231, subdivision 2, is amended to read:

Subd. 2. **Provider eligibility.** (a) To be considered for an SRSA, a provider shall apply to the commissioner or have been chosen as an SRSA provider prior to June 30, 2009, and have complied with all requirements of the SRSA agreement. Priority for funds is given to providers who had agreements prior to June 30, 2009. If sufficient funds are available, the commissioner shall make applications available to additional providers. To be eligible to apply for an SRSA, a provider shall:

(1) be eligible for child care assistance payments under chapter 119B;

(2) have at least 25 percent of the children enrolled with the provider subsidized through the child care assistance program;

(3) provide full-time, full-year child care services; and

(4) ~~serve at least one child who is subsidized through the child care assistance program and who~~

~~is expected to enter kindergarten within the following 30 months~~ have obtained a level 3 or 4 star rating under the voluntary Parent Aware quality rating system.

(b) The commissioner may waive the 25 percent requirement in paragraph (a), clause (2), if necessary to achieve geographic distribution of SRSA providers and diversity of types of care provided by SRSA providers.

(c) An eligible provider who would like to enter into an SRSA with the commissioner shall submit an SRSA application. To determine whether to enter into an SRSA with a provider, the commissioner shall evaluate the following factors:

- ~~(1) the qualifications of the provider and the provider's staff~~ provider's Parent Aware rating score;
- ~~(2) the provider's staff-child ratios;~~
- ~~(3) the provider's curriculum;~~
- ~~(4) the provider's current or planned parent education activities;~~
- ~~(5)~~ (2) the provider's current or planned social service and employment linkages;
- ~~(6) the provider's child development assessment plan;~~
- ~~(7)~~ (3) the geographic distribution needed for SRSA providers;
- ~~(8)~~ (4) the inclusion of a variety of child care delivery models; and
- ~~(9)~~ (5) other related factors determined by the commissioner.

Sec. 6. Minnesota Statutes 2008, section 119B.231, subdivision 3, is amended to read:

Subd. 3. **Family and child eligibility.** (a) A family eligible to choose an SRSA provider for their children shall:

(1) be eligible to receive child care assistance under any provision in chapter 119B except section 119B.035;

(2) be in an authorized activity for an average of at least 35 hours per week when initial eligibility is determined; and

(3) include a child who has not yet entered kindergarten.

(b) A family who is determined to be eligible to choose an SRSA provider remains eligible to be paid at a higher rate through the SRSA provider when the following conditions exist:

(1) the child attends child care with the SRSA provider a minimum of 25 hours per week, on average;

(2) the family has a child who has not yet entered kindergarten; and

(3) the family maintains eligibility under chapter 119B except section 119B.035.

(c) ~~For the 12 months~~ After initial eligibility has been determined, a decrease in the family's authorized activities to an average of less than 35 hours per week does not result in ineligibility for the SRSA rate. A family must continue to maintain eligibility under this chapter and be in an

authorized activity.

(d) A family that moves between counties but continues to use the same SRSA provider shall continue to receive SRSA funding for the increased payments.

Sec. 7. Minnesota Statutes 2008, section 119B.231, subdivision 4, is amended to read:

Subd. 4. **Requirements of providers.** An SRSA must include assessment, evaluation, and reporting requirements that promote the goals of improved school readiness and movement toward appropriate child development milestones. A provider who enters into an SRSA shall comply with all SRSA requirements, including the assessment, evaluation, and reporting requirements in the SRSA. Providers who have been selected previously for SRSAs must begin the process to obtain a rating using Parent Aware according to timelines established by the commissioner. If the initial Parent Aware rating is less than three stars, the provider must submit a plan to improve the rating. If a 3 or 4 star rating is not obtained within established timelines, the commissioner may consider continuation of the agreement, depending upon the progress made and other factors. Providers who apply and are selected for a new SRSA agreement on or after July 1, 2009, must have a level 3 or 4 star rating under the voluntary Parent Aware quality rating system at the time the SRSA agreement is signed.

Sec. 8. Minnesota Statutes 2008, section 145A.17, is amended by adding a subdivision to read:

Subd. 4a. **Home visitors as MFIP employment and training service providers.** The county social service agency and the local public health department may mutually agree to utilize home visitors under this section as MFIP employment and training service providers under section 256J.49, subdivision 4, for MFIP participants who are: (1) ill or incapacitated under section 256J.425, subdivision 2; or (2) minor caregivers under section 256J.54. The county social service agency and the local public health department may also mutually agree to utilize home visitors to provide outreach to MFIP families who are being sanctioned or who have been terminated from MFIP due to the 60-month time limit.

Sec. 9. Minnesota Statutes 2008, section 256.045, subdivision 3, is amended to read:

Subd. 3. **State agency hearings.** (a) State agency hearings are available for the following:

(1) any person applying for, receiving or having received public assistance, medical care, or a program of social services granted by the state agency or a county agency or the federal Food Stamp Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid;

(2) any patient or relative aggrieved by an order of the commissioner under section 252.27;

(3) a party aggrieved by a ruling of a prepaid health plan;

(4) except as provided under chapter 245C, any individual or facility determined by a lead agency to have maltreated a vulnerable adult under section 626.557 after they have exercised their right to administrative reconsideration under section 626.557;

(5) any person whose claim for foster care payment according to a placement of the child resulting from a child protection assessment under section 626.556 is denied or not acted upon with reasonable promptness, regardless of funding source;



(6) any person to whom a right of appeal according to this section is given by other provision of law;

(7) an applicant aggrieved by an adverse decision to an application for a hardship waiver under section 256B.15;

(8) an applicant aggrieved by an adverse decision to an application or redetermination for a Medicare Part D prescription drug subsidy under section 256B.04, subdivision 4a;

(9) except as provided under chapter 245A, an individual or facility determined to have maltreated a minor under section 626.556, after the individual or facility has exercised the right to administrative reconsideration under section 626.556; ~~or~~

(10) except as provided under chapter 245C, an individual disqualified under sections 245C.14 and 245C.15, on the basis of serious or recurring maltreatment; a preponderance of the evidence that the individual has committed an act or acts that meet the definition of any of the crimes listed in section 245C.15, subdivisions 1 to 4; or for failing to make reports required under section 626.556, subdivision 3, or 626.557, subdivision 3. Hearings regarding a maltreatment determination under clause (4) or (9) and a disqualification under this clause in which the basis for a disqualification is serious or recurring maltreatment, which has not been set aside under sections 245C.22 and 245C.23, shall be consolidated into a single fair hearing. In such cases, the scope of review by the human services referee shall include both the maltreatment determination and the disqualification. The failure to exercise the right to an administrative reconsideration shall not be a bar to a hearing under this section if federal law provides an individual the right to a hearing to dispute a finding of maltreatment. Individuals and organizations specified in this section may contest the specified action, decision, or final disposition before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action, decision, or final disposition, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause why the request was not submitted within the 30-day time limit; or

(11) any person with an outstanding debt resulting from receipt of public assistance, medical care, or the federal Food Stamp Act who is contesting a setoff claim by the Department of Human Services or a county agency. The scope of the appeal is the validity of the claimant agency's intention to request a setoff of a refund under chapter 270A against the debt.

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

(c) For purposes of this section, bargaining unit grievance procedures are not an administrative

appeal.

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

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

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

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

Sec. 10. Minnesota Statutes 2008, section 256.983, subdivision 1, is amended to read:

Subdivision 1. **Programs established.** Within the limits of available appropriations, the commissioner of human services shall require the maintenance of budget neutral fraud prevention investigation programs in the counties participating in the fraud prevention investigation project established under this section. If funds are sufficient, the commissioner may also extend fraud prevention investigation programs to other counties provided the expansion is budget neutral to the state. Under any expansion, the commissioner has the final authority in decisions regarding the creation and realignment of individual county or regional operations.

Sec. 11. Minnesota Statutes 2008, section 256I.03, subdivision 7, is amended to read:

Subd. 7. **Countable income.** "Countable income" means all income received by an applicant or recipient less any applicable exclusions or disregards. For a recipient of any cash benefit from the SSI program, countable income means the SSI benefit limit in effect at the time the person is in a GRH setting less \$20, less the medical assistance personal needs allowance. If the SSI limit has been reduced for a person due to events occurring prior to the persons entering the GRH setting, countable income means actual income less any applicable exclusions and disregards.

**EFFECTIVE DATE.** This section is effective April 1, 2010.

Sec. 12. Minnesota Statutes 2008, section 256I.05, subdivision 7c, is amended to read:

Subd. 7c. **Demonstration project.** The commissioner is authorized to pursue the expansion of a demonstration project under federal food stamp regulation for the purpose of gaining additional federal reimbursement of food and nutritional costs currently paid by the state group residential housing program. The commissioner shall seek approval no later than ~~January 1, 2004~~ October 1, 2009. Any reimbursement received is nondedicated revenue to the general fund.

Sec. 13. Minnesota Statutes 2008, section 256J.24, subdivision 5, is amended to read:

Subd. 5. **MFIP transitional standard.** The MFIP transitional standard is based on the number of persons in the assistance unit eligible for both food and cash assistance unless the restrictions in subdivision 6 on the birth of a child apply. The following table represents the transitional standards

effective ~~October 1, 2007~~ April 1, 2009.

Number of Eligible People	Transitional Standard	Cash Portion	Food Portion
1	<del>\$391</del> <u>\$428:</u>	\$250	<del>\$141</del> <u>\$178</u>
2	<del>\$698</del> <u>\$764:</u>	\$437	<del>\$261</del> <u>\$327</u>
3	<del>\$910</del> <u>\$1,005:</u>	\$532	<del>\$378</del> <u>\$473</u>
4	<del>\$1,091</del> <u>\$1,217:</u>	\$621	<del>\$470</del> <u>\$596</u>
5	<del>\$1,245</del> <u>\$1,393:</u>	\$697	<del>\$548</del> <u>\$696</u>
6	<del>\$1,425</del> <u>\$1,602:</u>	\$773	<del>\$652</del> <u>\$829</u>
7	<del>\$1,553</del> <u>\$1,748:</u>	\$850	<del>\$703</del> <u>\$898</u>
8	<del>\$1,713</del> <u>\$1,934:</u>	\$916	<del>\$797</del> <u>\$1,018</u>
9	<del>\$1,871</del> <u>\$2,119:</u>	\$980	<del>\$891</del> <u>\$1,139</u>
10	<del>\$2,024</del> <u>\$2,298:</u>	\$1,035	<del>\$989</del> <u>\$1,263</u>
over 10	add <del>\$151</del> <u>\$178:</u>	\$53	<del>\$98</del> <u>\$125</u>

per additional member.

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

**EFFECTIVE DATE.** This section is effective retroactively from April 1, 2009.

Sec. 14. Minnesota Statutes 2008, section 256J.425, subdivision 2, is amended to read:

Subd. 2. **Ill or incapacitated.** (a) An assistance unit subject to the time limit in section 256J.42, subdivision 1, is eligible to receive months of assistance under a hardship extension if the participant who reached the time limit belongs to any of the following groups:

(1) participants who are suffering from an illness, injury, or incapacity which has been certified by a qualified professional when the illness, injury, or incapacity is expected to continue for more than 30 days and ~~prevents the person from obtaining or retaining employment~~ severely limits the person's ability to obtain or maintain suitable employment. These participants must follow the treatment recommendations of the qualified professional certifying the illness, injury, or incapacity;

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

(3) caregivers with a child or an adult in the household who meets the disability or medical criteria for home care services under section 256B.0651, subdivision 1, paragraph (c), or a home and community-based waiver services program under chapter 256B, or meets the criteria for severe emotional disturbance under section 245.4871, subdivision 6, or for serious and persistent mental illness under section 245.462, subdivision 20, paragraph (c). Caregivers in this category are

presumed to be prevented from obtaining or retaining employment.

(b) An assistance unit receiving assistance under a hardship extension under this subdivision may continue to receive assistance as long as the participant meets the criteria in paragraph (a), clause (1), (2), or (3).

Sec. 15. Minnesota Statutes 2008, section 256J.425, subdivision 3, is amended to read:

Subd. 3. **Hard-to-employ participants.** (a) An assistance unit subject to the time limit in section 256J.42, subdivision 1, is eligible to receive months of assistance under a hardship extension if the participant who reached the time limit belongs to any of the following groups:

(1) a person who is diagnosed by a licensed physician, psychological practitioner, or other qualified professional, as developmentally disabled or mentally ill, and ~~that condition prevents the person from obtaining or retaining unsubsidized employment~~ the condition severely limits the person's ability to obtain or maintain suitable employment;

(2) a person who:

(i) has been assessed by a vocational specialist or the county agency to be unemployable for purposes of this subdivision; or

(ii) has an IQ below 80 who has been assessed by a vocational specialist or a county agency to be employable, but ~~not at a level that makes the participant eligible for an extension under subdivision 4~~ the condition severely limits the person's ability to obtain or maintain suitable employment. The determination of IQ level must be made by a qualified professional. In the case of a non-English-speaking person: (A) the determination must be made by a qualified professional with experience conducting culturally appropriate assessments, whenever possible; (B) the county may accept reports that identify an IQ range as opposed to a specific score; (C) these reports must include a statement of confidence in the results;

(3) a person who is determined by a qualified professional to be learning disabled, and the disability condition severely limits the person's ability to obtain, ~~perform,~~ or maintain suitable employment. For purposes of the initial approval of a learning disability extension, the determination must have been made or confirmed within the previous 12 months. In the case of a non-English-speaking person: (i) the determination must be made by a qualified professional with experience conducting culturally appropriate assessments, whenever possible; and (ii) these reports must include a statement of confidence in the results. If a rehabilitation plan for a participant extended as learning disabled is developed or approved by the county agency, the plan must be incorporated into the employment plan. However, a rehabilitation plan does not replace the requirement to develop and comply with an employment plan under section 256J.521; or

(4) a person who has been granted a family violence waiver, and who is complying with an employment plan under section 256J.521, subdivision 3.

(b) For purposes of this section, "severely limits the person's ability to obtain or maintain suitable employment" means that a qualified professional has determined that the person's condition prevents the person from working 20 or more hours per week.

Sec. 16. Minnesota Statutes 2008, section 256J.49, subdivision 1, is amended to read:

Subdivision 1. **Scope.** The terms used in sections ~~256J.50~~ 256J.425 to 256J.72 have the meanings given them in this section.

Sec. 17. Minnesota Statutes 2008, section 256J.49, subdivision 4, is amended to read:

Subd. 4. **Employment and training service provider.** "Employment and training service provider" means:

(1) a public, private, or nonprofit agency with which a county has contracted to provide employment and training services and which is included in the county's service agreement submitted under section 256J.626, subdivision 4; ~~or~~

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

(3) a local public health department under section 145A.17, subdivision 3a, that a county has designated to provide employment and training services and is included in the county's service agreement submitted under section 256J.626, subdivision 4.

Notwithstanding section 116L.871, an employment and training services provider meeting this definition may deliver employment and training services under this chapter.

Sec. 18. Minnesota Statutes 2008, section 256J.521, subdivision 2, is amended to read:

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

(1) unsubsidized employment;

(2) job search;

(3) subsidized employment or unpaid work experience;

(4) unsubsidized employment and job readiness education or job skills training;

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

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

(b) Participants who are determined to possess sufficient skills such that the participant is likely

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

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

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

~~(e)~~ (d) The job counselor and the participant must sign the employment plan to indicate agreement on the contents.

~~(f)~~ (e) Except as provided under paragraph ~~(g)~~ (f), failure to develop or comply with activities in the plan, or voluntarily quitting suitable employment without good cause, will result in the imposition of a sanction under section 256J.46.

~~(g)~~ (f) When a participant fails to meet the agreed upon hours of participation in paid employment because the participant is not eligible for holiday pay and the participant's place of employment is closed for a holiday, the job counselor shall not impose a sanction or increase the hours of participation in any other activity, including paid employment, to offset the hours that were missed due to the holiday.

~~(h)~~ (g) Employment plans must be reviewed at least every three months to determine whether activities and hourly requirements should be revised. The job counselor is encouraged to allow participants who are participating in at least 20 hours of work activities to also participate in education and training activities in order to meet the federal hourly participation rates.

Sec. 19. Minnesota Statutes 2008, section 256J.545, is amended to read:

**256J.545 FAMILY VIOLENCE WAIVER CRITERIA.**

(a) In order to qualify for a family violence waiver, an individual must provide documentation of past or current family violence which may prevent the individual from participating in certain employment activities.

(b) The following items may be considered acceptable documentation or verification of family violence:

- (1) police, government agency, or court records;
  - (2) a statement from a battered women's shelter staff with knowledge of the circumstances or credible evidence that supports the sworn statement;
  - (3) a statement from a sexual assault or domestic violence advocate with knowledge of the circumstances or credible evidence that supports the sworn statement; or
  - (4) a statement from professionals from whom the applicant or recipient has sought assistance for the abuse.
- (c) A claim of family violence may also be documented by a sworn statement from the applicant or participant and a sworn statement from any other person with knowledge of the circumstances or credible evidence that supports the client's statement.

Sec. 20. Minnesota Statutes 2008, section 256J.561, subdivision 2, is amended to read:

**Subd. 2. Participation requirements.** (a) All MFIP caregivers, except caregivers who meet the criteria in subdivision 3, must ~~participate in employment services~~ develop an individualized employment plan that identifies the activities the participant is required to participate in and the required hours of participation. ~~Except as specified in paragraphs (b) to (d), the employment plan must meet the requirements of section 256J.521, subdivision 2, contain allowable work activities, as defined in section 256J.49, subdivision 13, and, include at a minimum, the number of participation hours required under section 256J.55, subdivision 1.~~

~~(b) Minor caregivers and caregivers who are less than age 20 who have not completed high school or obtained a GED are required to comply with section 256J.54.~~

~~(c) A participant who has a family violence waiver shall develop and comply with an employment plan under section 256J.521, subdivision 3.~~

~~(d) As specified in section 256J.521, subdivision 2, paragraph (c), a participant who meets any one of the following criteria may work with the job counselor to develop an employment plan that contains less than the number of participation hours under section 256J.55, subdivision 1. Employment plans for participants covered under this paragraph must be tailored to recognize the special circumstances of caregivers and families including limitations due to illness or disability and caregiving needs:~~

- ~~(1) a participant who is age 60 or older;~~
- ~~(2) a participant who has been diagnosed by a qualified professional as suffering from an illness or incapacity that is expected to last for 30 days or more, including a pregnant participant who is determined to be unable to obtain or retain employment due to the pregnancy; or~~
- ~~(3) a participant who is determined by a qualified professional as being needed in the home to care for an ill or incapacitated family member, including caregivers with a child or an adult in the household who meets the disability or medical criteria for home care services under section 256B.0651, subdivision 1, paragraph (c), or a home and community-based waiver services program under chapter 256B, or meets the criteria for severe emotional disturbance under section 245.4871, subdivision 6, or for serious and persistent mental illness under section 245.462, subdivision 20, paragraph (c).~~

~~(e) For participants covered under paragraphs (c) and (d), the county shall review the participant's employment services status every three months to determine whether conditions have changed. When it is determined that the participant's status is no longer covered under paragraph (c) or (d), the county shall notify the participant that a new or revised employment plan is needed. The participant and job counselor shall meet within ten days of the determination to revise the employment plan.~~

(b) Participants who meet the eligibility requirements in section 256J.575, subdivision 3, must develop a family stabilization services plan that meets the requirements in section 256J.575, subdivision 5.

(c) Minor caregivers and caregivers who are less than age 20 who have not completed high school or obtained a GED must develop an education plan that meets the requirements in section 256J.54.

(d) Participants with a family violence waiver must develop an employment plan that meets the requirements in section 256J.521, which cover the provisions in section 256J.575, subdivision 5.

(e) All other participants must develop an employment plan that meets the requirements of section 256J.521, subdivision 2, and contains allowable work activities, as defined in section 256J.49, subdivision 13. The employment plan must include, at a minimum, the number of participation hours required under section 256J.55, subdivision 1.

Sec. 21. Minnesota Statutes 2008, section 256J.561, subdivision 3, is amended to read:

Subd. 3. **Child under 12 weeks months of age.** (a) A participant who has a natural born child who is less than 12 weeks months of age who meets the criteria in this subdivision is not required to participate in employment services until the child reaches 12 weeks months of age. To be eligible for this provision, the assistance unit must not have already used this provision or the previously allowed child under age one exemption. However, an assistance unit that has an approved child under age one exemption at the time this provision becomes effective may continue to use that exemption until the child reaches one year of age.

(b) The provision in paragraph (a) ends the first full month after the child reaches 12 weeks months of age. This provision is available only once in a caregiver's lifetime. In a two-parent household, only one parent shall be allowed to use this provision. The participant and job counselor must meet within ten days after the child reaches 12 weeks months of age to revise the participant's employment plan.

**EFFECTIVE DATE.** This section is effective March 1, 2010.

Sec. 22. Minnesota Statutes 2008, section 256J.57, subdivision 1, is amended to read:

Subdivision 1. **Good cause for failure to comply.** The county agency shall not impose the sanction under section 256J.46 if it determines that the participant has good cause for failing to comply with the requirements of sections 256J.515 to 256J.57. Good cause exists when:

- (1) appropriate child care is not available;
- (2) the job does not meet the definition of suitable employment;
- (3) the participant is ill or injured;



(4) a member of the assistance unit, a relative in the household, or a foster child in the household is ill and needs care by the participant that prevents the participant from complying with the employment plan;

(5) the participant is unable to secure necessary transportation;

(6) the participant is in an emergency situation that prevents compliance with the employment plan;

(7) the schedule of compliance with the employment plan conflicts with judicial proceedings;

(8) a mandatory MFIP meeting is scheduled during a time that conflicts with a judicial proceeding or a meeting related to a juvenile court matter, or a participant's work schedule;

(9) the participant is already participating in acceptable work activities;

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

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

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

(13) the participant documents other verifiable impediments to compliance with the employment plan beyond the participant's control; or

(14) the documentation needed to determine if a participant is eligible for family stabilization services is not available, but there is information that the participant may qualify and the participant is cooperating with the county or employment service provider's efforts to obtain the documentation necessary to determine eligibility.

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

Sec. 23. Minnesota Statutes 2008, section 256J.575, subdivision 3, is amended to read:

Subd. 3. **Eligibility.** (a) The following MFIP ~~or diversionary work program (DWP)~~ participants are eligible for the services under this section:

(1) a participant who meets the requirements for or has been granted a hardship extension under section 256J.425, subdivision 2 or 3, except that it is not necessary for the participant to have reached or be approaching 60 months of eligibility for this section to apply;

(2) a participant who is applying for Supplemental Security Income or Social Security disability insurance; ~~and~~

(3) a participant who is a noncitizen who has been in the United States for 12 or fewer months; and

(4) a participant who is age 60 or older.

(b) Families must meet all other eligibility requirements for MFIP established in this chapter. Families are eligible for financial assistance to the same extent as if they were participating in MFIP.

(c) A participant under paragraph (a), clause (3), must be provided with English as a second language opportunities and skills training for up to 12 months. After 12 months, the case manager and participant must determine whether the participant should continue with English as a second language classes or skills training, or both, and continue to receive family stabilization services.

(d) If a county agency or employment services provider has information that an MFIP participant may meet the eligibility criteria set forth in this subdivision, the county agency or employment services provider must assist the participant in obtaining the documentation necessary to determine eligibility. Until necessary documentation is obtained, the participant must be treated as an eligible participant under subdivisions 5 to 7.

**EFFECTIVE DATE.** This section is effective July 1, 2009, except the amendment to paragraph (a) striking "or diversionary work program (DWP)" is effective March 1, 2010.

Sec. 24. Minnesota Statutes 2008, section 256J.575, subdivision 4, is amended to read:

Subd. 4. **Universal participation.** All caregivers must participate in family stabilization services as defined in subdivision 2, except for caregivers exempt under section 256J.561, subdivision 3.

**EFFECTIVE DATE.** This section is effective March 1, 2010.

Sec. 25. Minnesota Statutes 2008, section 256J.575, subdivision 6, is amended to read:

Subd. 6. **Cooperation with services requirements.** (a) ~~To be eligible,~~ A participant who is eligible for family stabilization services under this section shall comply with paragraphs (b) to (d).

(b) Participants shall engage in family stabilization plan services for the appropriate number of hours per week that the activities are scheduled and available, unless good cause exists for not doing so, as defined in section 256J.57, subdivision 1. The appropriate number of hours must be based on the participant's plan.

(c) The case manager shall review the participant's progress toward the goals in the family stabilization plan every six months to determine whether conditions have changed, including whether revisions to the plan are needed.

(d) A participant's requirement to comply with any or all family stabilization plan requirements under this subdivision is excused when the case management services, training and educational services, or family support services identified in the participant's family stabilization plan are unavailable for reasons beyond the control of the participant, including when money appropriated is not sufficient to provide the services.

Sec. 26. Minnesota Statutes 2008, section 256J.575, subdivision 7, is amended to read:

Subd. 7. **Sanctions.** (a) The county agency or employment services provider must follow the requirements of this subdivision at the time the county agency or employment services provider has information that an MFIP recipient may meet the eligibility criteria in subdivision 3.

(b) The financial assistance grant of a participating family is reduced according to section 256J.46, if a participating adult fails without good cause to comply or continue to comply with the family stabilization plan requirements in this subdivision, unless compliance has been excused under subdivision 6, paragraph (d).

~~(b)~~ (c) Given the purpose of the family stabilization services in this section and the nature of the underlying family circumstances that act as barriers to both employment and full compliance with program requirements, there must be a review by the county agency prior to imposing a sanction to determine whether the plan was appropriated to the needs of the participant and family, ~~and. There must be a current assessment by a behavioral health or medical professional confirming that the participant in all ways had the ability to comply with the plan, as confirmed by a behavioral health or medical professional.~~

~~(e)~~ (d) Prior to the imposition of a sanction, the county agency or employment services provider shall review the participant's case to determine if the family stabilization plan is still appropriate and meet with the participant face-to-face. ~~The participant may bring an advocate. The county agency or employment services provider must inform the participant of the right to bring an advocate to the face-to-face meeting.~~

During the face-to-face meeting, the county agency shall:

(1) determine whether the continued noncompliance can be explained and mitigated by providing a needed family stabilization service, as defined in subdivision 2, paragraph (d);

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

(3) determine whether activities in the family stabilization plan are appropriate based on the family's circumstances;

(4) explain the consequences of continuing noncompliance;

(5) identify other resources that may be available to the participant to meet the needs of the family; and

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

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

(d) If the participant fails to come to the face-to-face meeting, the case manager or a designee shall attempt at least one home visit. If a face-to-face meeting is not conducted, the county agency shall send the participant a written notice that includes the information under paragraph (c).

(e) After the requirements of paragraphs (c) and (d) are met and prior to imposition of a sanction, the county agency shall provide a notice of intent to sanction under section 256J.57, subdivision 2, and, when applicable, a notice of adverse action under section 256J.31.

(f) Section 256J.57 applies to this section except to the extent that it is modified by this subdivision.

Sec. 27. Minnesota Statutes 2008, section 256J.621, is amended to read:

**256J.621 WORK PARTICIPATION CASH BENEFITS.**

(a) Effective October 1, 2009, upon exiting the diversionary work program (DWP) or upon

terminating the Minnesota family investment program with earnings, a participant who is employed may be eligible for work participation cash benefits of ~~\$75~~ \$50 per month to assist in meeting the family's basic needs as the participant continues to move toward self-sufficiency.

(b) To be eligible for work participation cash benefits, the participant shall not receive MFIP or diversionary work program assistance during the month and the participant or participants must meet the following work requirements:

(1) if the participant is a single caregiver and has a child under six years of age, the participant must be employed at least 87 hours per month;

(2) if the participant is a single caregiver and does not have a child under six years of age, the participant must be employed at least 130 hours per month; or

(3) if the household is a two-parent family, at least one of the parents must be employed an average of at least 130 hours per month.

Whenever a participant exits the diversionary work program or is terminated from MFIP and meets the other criteria in this section, work participation cash benefits are available for up to 24 consecutive months.

(c) Expenditures on the program are maintenance of effort state funds under a separate state program for participants under paragraph (b), clauses (1) and (2). Expenditures for participants under paragraph (b), clause (3), are nonmaintenance of effort funds. Months in which a participant receives work participation cash benefits under this section do not count toward the participant's MFIP 60-month time limit.

Sec. 28. Minnesota Statutes 2008, section 256J.626, subdivision 7, is amended to read:

Subd. 7. **Performance base funds.** (a) For the purpose of this section, the following terms have the meanings given.

(1) "Caseload Reduction Credit" (CRC) means the measure of how much Minnesota TANF and separate state program caseload has fallen relative to federal fiscal year 2005 based on caseload data from October 1 to September 30.

(2) "TANF participation rate target" means a 50 percent participation rate reduced by the CRC for the previous year.

(b) For calendar year ~~2009~~ 2010 and yearly thereafter, each county and tribe will be allocated 95 percent of their initial calendar year allocation. Counties and tribes will be allocated additional funds based on performance as follows:

(1) a county or tribe that achieves ~~a 50 percent~~ the TANF participation rate target or a five percentage point improvement over the previous year's TANF participation rate under section 256J.751, subdivision 2, clause (7), as averaged across 12 consecutive months for the most recent year for which the measurements are available, will receive an additional allocation equal to 2.5 percent of its initial allocation; ~~and~~

(2) a county or tribe that performs within or above its range of expected performance on the annualized three-year self-support index under section 256J.751, subdivision 2, clause (6), will receive an additional allocation equal to 2.5 percent of its initial allocation; and

(3) a county or tribe that does not achieve a ~~50 percent~~ the TANF participation rate target or a five percentage point improvement over the previous year's TANF participation rate under section 256J.751, subdivision 2, clause (7), as averaged across 12 consecutive months for the most recent year for which the measurements are available, will not receive an additional 2.5 percent of its initial allocation until after negotiating a multiyear improvement plan with the commissioner; or

(4) a county or tribe that does not perform within or above its range of expected performance on the annualized three-year self-support index under section 256J.751, subdivision 2, clause (6), will not receive an additional allocation equal to 2.5 percent of its initial allocation until after negotiating a multiyear improvement plan with the commissioner.

~~(b)~~ (c) For calendar year 2009 and yearly thereafter, performance-based funds for a federally approved tribal TANF program in which the state and tribe have in place a contract under section 256.01, addressing consolidated funding, will be allocated as follows:

(1) a tribe that achieves the participation rate approved in its federal TANF plan using the average of 12 consecutive months for the most recent year for which the measurements are available, will receive an additional allocation equal to 2.5 percent of its initial allocation; and

(2) a tribe that performs within or above its range of expected performance on the annualized three-year self-support index under section 256J.751, subdivision 2, clause (6), will receive an additional allocation equal to 2.5 percent of its initial allocation; or

(3) a tribe that does not achieve the participation rate approved in its federal TANF plan using the average of 12 consecutive months for the most recent year for which the measurements are available, will not receive an additional allocation equal to 2.5 percent of its initial allocation until after negotiating a multiyear improvement plan with the commissioner; or

(4) a tribe that does not perform within or above its range of expected performance on the annualized three-year self-support index under section 256J.751, subdivision 2, clause (6), will not receive an additional allocation equal to 2.5 percent until after negotiating a multiyear improvement plan with the commissioner.

~~(e)~~ (d) Funds remaining unallocated after the performance-based allocations in paragraph ~~(a)~~ (b) are available to the commissioner for innovation projects under subdivision 5.

~~(d)~~ (1) If available funds are insufficient to meet county and tribal allocations under paragraph ~~(a)~~ (b), the commissioner may make available for allocation funds that are unobligated and available from the innovation projects through the end of the current biennium.

(2) If after the application of clause (1) funds remain insufficient to meet county and tribal allocations under paragraph ~~(a)~~ (b), the commissioner must proportionally reduce the allocation of each county and tribe with respect to their maximum allocation available under paragraph ~~(a)~~ (b).

Sec. 29. Minnesota Statutes 2008, section 256J.95, subdivision 3, is amended to read:

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

- (1) child only cases;
  - (2) a single-parent family unit that includes a child under 12 ~~weeks~~ months of age. A parent is eligible for this exception once in a parent's lifetime and is not eligible if the parent has already used the previously allowed child under age one exemption from MFIP employment services;
  - (3) a minor parent without a high school diploma or its equivalent;
  - (4) an 18- or 19-year-old caregiver without a high school diploma or its equivalent who chooses to have an employment plan with an education option;
  - (5) a caregiver age 60 or over;
  - (6) family units with a caregiver who received DWP benefits in the 12 months prior to the month the family applied for DWP, except as provided in paragraph (c);
  - (7) family units with a caregiver who received MFIP within the 12 months prior to the month the family unit applied for DWP;
  - (8) a family unit with a caregiver who received 60 or more months of TANF assistance;
  - (9) a family unit with a caregiver who is disqualified from DWP or MFIP due to fraud; and
  - (10) refugees and asylees as defined in Code of Federal Regulations, title 45, part 400, subpart d, section 400.43, who arrived in the United States in the 12 months prior to the date of application for family cash assistance.
- (b) A two-parent family must participate in DWP unless both caregivers meet the criteria for an exception under paragraph (a), clauses (1) through (5), or the family unit includes a parent who meets the criteria in paragraph (a), clause (6), (7), (8), (9), or (10).
- (c) Once DWP eligibility is determined, the four months run consecutively. If a participant leaves the program for any reason and reapplies during the four-month period, the county must redetermine eligibility for DWP.

**EFFECTIVE DATE.** This section is effective March 1, 2010.

Sec. 30. Minnesota Statutes 2008, section 256J.95, subdivision 11, is amended to read:

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

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

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

(d) One parent in a two-parent family unit that has a natural born child under 12 weeks months of age is not required to have an employment plan until the child reaches 12 weeks months of age unless the family unit has already used the exclusion under section 256J.561, subdivision 3, or the previously allowed child under age one exemption under section 256J.56, paragraph (a), clause (5).

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

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

**EFFECTIVE DATE.** This section is effective March 1, 2010.

Sec. 31. Minnesota Statutes 2008, section 256J.95, subdivision 12, is amended to read:

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

(b) A participant who: meets the eligibility requirements under section 256J.575, subdivision 3, must be considered to be unlikely to benefit from DWP, provided the necessary documentation is available to support the determination.

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

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

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

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

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

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

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

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

**EFFECTIVE DATE.** This section is effective March 1, 2010.

Sec. 32. Minnesota Statutes 2008, section 256J.95, subdivision 13, is amended to read:

Subd. 13. **Immediate referral to employment services.** Within one working day of determination that the applicant is eligible for the diversionary work program, but before benefits are issued to or on behalf of the family unit, the county shall refer all caregivers to employment services. The referral to the DWP employment services must be in writing and must contain the following information:

(1) notification that, as part of the application process, applicants are required to develop an employment plan or the DWP application will be denied;

(2) the employment services provider name and phone number;

~~(3) the date, time, and location of the scheduled employment services interview;~~

~~(4) the immediate availability of supportive services, including, but not limited to, child care, transportation, and other work-related aid; and~~

~~(5) (4) the rights, responsibilities, and obligations of participants in the program, including, but not limited to, the grounds for good cause, the consequences of refusing or failing to participate fully with program requirements, and the appeal process.~~

Sec. 33. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 3b. **Extension; adoption finalized after age 16.** A child who has 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. 34. Minnesota Statutes 2008, section 270A.09, is amended by adding a subdivision to read:

Subd. 1b. **Department of Human Services claims.** Notwithstanding subdivision 1, any debtor contesting a setoff claim by the Department of Human Services or a county agency whose claim relates to a debt resulting from receipt of public assistance, medical care, or the federal Food Stamp Act shall have a hearing conducted in the same manner as an appeal under sections 256.045 and 256.0451.

Sec. 35. **AMERICAN INDIAN CHILD WELFARE PROJECTS.**

Notwithstanding Minnesota Statutes, section 16A.28, the commissioner of human services shall extend payment of state fiscal year 2009 funds in state fiscal year 2010 to tribes participating in the American Indian child welfare projects under Minnesota Statutes, section 256.01, subdivision 14b. Future extensions of payment for a tribe participating in the Indian child welfare projects under Minnesota Statutes, section 256.01, subdivision 14b, must be granted according to the commissioner's authority under Minnesota Statutes, section 16A.28.

Sec. 36. **REPEALER.**

Minnesota Statutes 2008, section 256I.06, subdivision 9, is repealed.

### ARTICLE 3

#### STATE-OPERATED SERVICES/MINNESOTA SEX OFFENDER PROGRAM

Section 1. Minnesota Statutes 2008, section 246.50, subdivision 5, is amended to read:

Subd. 5. **Cost of care.** "Cost of care" means the commissioner's charge for services provided to any person admitted to a state facility.

For purposes of this subdivision, "charge for services" means the cost of services, treatment, maintenance, bonds issued for capital improvements, depreciation of buildings and equipment, and indirect costs related to the operation of state facilities. The commissioner may determine the charge for services on an anticipated average per diem basis as an all-inclusive charge per facility, per disability group, or per treatment program. The commissioner may determine a charge per service, using a method that includes direct and indirect costs usual and customary fee charged for services provided to clients. The usual and customary fee shall be established in a manner required to appropriately bill services to all payers and shall include the costs related to the operations of any program offered by the state.

Sec. 2. Minnesota Statutes 2008, section 246.50, is amended by adding a subdivision to read:

Subd. 10. **State-operated community-based program.** "State-operated community-based program" means any program operated in the community including community behavioral health hospitals, crisis centers, residential facilities, outpatient services, and other community-based services developed and operated by the state and under the commissioner's control.

Sec. 3. Minnesota Statutes 2008, section 246.50, is amended by adding a subdivision to read:

Subd. 11. **Health plan company.** "Health plan company" has the meaning given it in section 62Q.01, subdivision 4, and also includes a demonstration provider as defined in section 256B.69, subdivision 2, paragraph (b), a county or group of counties participating in county-based purchasing according to section 256B.692, and a children's mental health collaborative under contract to provide medical assistance for individuals enrolled in the prepaid medical assistance and MinnesotaCare programs under sections 245.493 to 245.495.

Sec. 4. Minnesota Statutes 2008, section 246.51, is amended by adding a subdivision to read:

Subd. 1a. **Clients in state-operated community-based programs; determination.** The commissioner shall determine available health plan coverage from a health plan company for services provided to clients admitted to a state-operated community-based program. If the health plan coverage requires a co-pay or deductible, or if there is no available health plan coverage, the commissioner shall determine or redetermine, what part of the noncovered cost of care, if any, the client is able to pay. If the client is unable to pay the uncovered cost of care, the commissioner shall determine the client's relatives' ability to pay. The client and relatives shall provide to the commissioner documents and proof necessary to determine the client and relatives' ability to pay. Failure to provide the commissioner with sufficient information to determine ability to pay may make the client or relatives liable for the full cost of care until the time when sufficient information is provided. If it is determined that the responsible party does not have the ability to pay, the commissioner shall waive payment of the portion that exceeds ability to pay under the determination.

Sec. 5. Minnesota Statutes 2008, section 246.51, is amended by adding a subdivision to read:

Subd. 1b. **Clients served by regional treatment centers or nursing homes; determination.** The commissioner shall determine or redetermine, if necessary, what part of the cost of care, if any, a client served in regional treatment centers or nursing homes operated by state-operated services, is able to pay. If the client is unable to pay the full cost of care, the commissioner shall determine if the client's relatives have the ability to pay. The client and relatives shall provide to the commissioner documents and proof necessary to determine the client and relatives' ability to pay. Failure to provide the commissioner with sufficient information to determine ability to pay may make the client or relatives liable for the full cost of care until the time when sufficient information is provided. No parent shall be liable for the cost of care given a client at a regional treatment center after the client has reached the age of 18 years.

Sec. 6. Minnesota Statutes 2008, section 246.511, is amended to read:

**246.511 RELATIVE RESPONSIBILITY.**

Except for chemical dependency services paid for with funds provided under chapter 254B, a client's relatives shall not, pursuant to the commissioner's authority under section 246.51, be

ordered to pay more than ~~ten percent of the cost of~~ the following: (1) for services provided in a community-based service, the noncovered cost of care as determined under the ability to pay determination; and (2) for services provided at a regional treatment center operated by state-operated services, 20 percent of the cost of care, unless they reside outside the state. Parents of children in state facilities shall have their responsibility to pay determined according to section 252.27, subdivision 2, or in rules adopted under chapter 254B if the cost of care is paid under chapter 254B. The commissioner may accept voluntary payments in excess of ~~ten~~ 20 percent. The commissioner may require full payment of the full per capita cost of care in state facilities for clients whose parent, parents, spouse, guardian, or conservator do not reside in Minnesota.

Sec. 7. Minnesota Statutes 2008, section 246.52, is amended to read:

**246.52 PAYMENT FOR CARE; ORDER; ACTION.**

The commissioner shall issue an order to the client or the guardian of the estate, if there be one, and relatives determined able to pay requiring them to pay ~~monthly~~ to the state of Minnesota the amounts so determined the total of which shall not exceed the full cost of care. Such order shall specifically state the commissioner's determination and shall be conclusive unless appealed from as herein provided. When a client or relative fails to pay the amount due hereunder the attorney general, upon request of the commissioner, may institute, or direct the appropriate county attorney to institute, civil action to recover such amount.

Sec. 8. Minnesota Statutes 2008, section 246.54, subdivision 2, is amended to read:

Subd. 2. **Exceptions.** (a) Subdivision 1 does not apply to services provided at the Minnesota Security Hospital, ~~the Minnesota sex offender program,~~ or the Minnesota extended treatment options program. For services at these facilities, a county's payment shall be made from the county's own sources of revenue and payments shall be paid as follows: payments to the state from the county shall equal ten percent of the cost of care, as determined by the commissioner, for each day, or the portion thereof, that the client spends at the facility. If payments received by the state under sections 246.50 to 246.53 exceed 90 percent of the cost of care, the county shall be responsible for paying the state only the remaining amount. The county shall not be entitled to reimbursement from the client, the client's estate, or from the client's relatives, except as provided in section 246.53.

(b) Regardless of the facility to which the client is committed, subdivision 1 does not apply to the following individuals:

(1) clients who are committed as mentally ill and dangerous under section 253B.02, subdivision 17;

(2) clients who are committed as sexual psychopathic personalities under section 253B.02, subdivision 18b; and

(3) clients who are committed as sexually dangerous persons under section 253B.02, subdivision 18c.

For each of the individuals in clauses (1) to (3), the payment by the county to the state shall equal ten percent of the cost of care for each day as determined by the commissioner.

Sec. 9. Minnesota Statutes 2008, section 246B.01, is amended by adding a subdivision to read:

Subd. 1a. **Client.** "Client" means a person who is admitted to the Minnesota sex offender program or subject to a court hold order under section 253B.185 for the purpose of assessment, diagnosis, care, treatment, supervision, or other services provided by the Minnesota sex offender program.

Sec. 10. Minnesota Statutes 2008, section 246B.01, is amended by adding a subdivision to read:

Subd. 1b. **Client's county.** "Client's county" means the county of the client's legal settlement for poor relief purposes at the time of commitment. If the client has no legal settlement for poor relief in this state, it means the county of commitment, except that when a client with no legal settlement for poor relief is committed while serving a sentence at a penal institution, it means the county from which the client was sentenced.

Sec. 11. Minnesota Statutes 2008, section 246B.01, is amended by adding a subdivision to read:

Subd. 2a. **Cost of care.** "Cost of care" means the commissioner's charge for housing and treatment services provided to any person admitted to the Minnesota sex offender program.

For purposes of this subdivision, "charge for housing and treatment services" means the cost of services, treatment, maintenance, bonds issued for capital improvements, depreciation of buildings and equipment, and indirect costs related to the operation of state facilities. The commissioner may determine the charge for services on an anticipated average per diem basis as an all-inclusive charge per facility.

Sec. 12. Minnesota Statutes 2008, section 246B.01, is amended by adding a subdivision to read:

Subd. 2b. **Local social services agency.** "Local social services agency" means the local social services agency of the client's county as defined in subdivision 1b and of the county of commitment, and any other local social services agency possessing information regarding, or requested by the commissioner to investigate, the financial circumstances of a client.

Sec. 13. **[246B.07] PAYMENT FOR CARE AND TREATMENT: DETERMINATION.**

Subdivision 1. **Procedures.** The commissioner shall determine or redetermine, if necessary, what amount of the cost of care, if any, the client is able to pay. The client shall provide to the commissioner documents and proof necessary to determine the ability to pay. Failure to provide the commissioner with sufficient information to determine ability to pay may make the client liable for the full cost of care until the time when sufficient information is provided.

Subd. 2. **Rules.** The commissioner shall use the standards in section 246.51, subdivision 2, to determine the client's liability for the care provided by the Minnesota sex offender program.

Subd. 3. **Applicability.** The commissioner may recover, under sections 246B.07 to 246B.10, the cost of any care provided by the Minnesota sex offender program.

Sec. 14. **[246B.08] PAYMENT FOR CARE; ORDER; ACTION.**

The commissioner shall issue an order to the client or the guardian of the estate, if there is one, requiring the client or guardian to pay to the state the amounts determined, the total of which must not exceed the full cost of care. The order must specifically state the commissioner's determination and must be conclusive, unless appealed. If a client fails to pay the amount due, the attorney general, upon request of the commissioner, may institute, or direct the appropriate county attorney to institute

a civil action to recover the amount.

**Sec. 15. [246B.09] CLAIM AGAINST ESTATE OF DECEASED CLIENT.**

Subdivision 1. **Client's estate.** Upon the death of a client, or a former client, the total cost of care provided to the client, less the amount actually paid toward the cost of care by the client, must be filed by the commissioner as a claim against the estate of the client with the court having jurisdiction to probate the estate, and all proceeds collected by the state in the case must be divided between the state and county in proportion to the cost of care each has borne.

Subd. 2. **Preferred status.** An estate claim in subdivision 1 must be considered an expense of the last illness for purposes of section 524.3-805.

If the commissioner determines that the property or estate of a client is not more than needed to care for and maintain the spouse and minor or dependent children of a deceased client, the commissioner has the power to compromise the claim of the state in a manner deemed just and proper.

Subd. 3. **Exception from statute of limitations.** Any statute of limitations that limits the commissioner in recovering the cost of care obligation incurred by a client or former client must not apply to any claim against an estate made under this section to recover cost of care.

**Sec. 16. [246B.10] LIABILITY OF COUNTY; REIMBURSEMENT.**

The client's county shall pay to the state a portion of the cost of care provided in the Minnesota sex offender program to a client who has legally settled in that county. A county's payment must be made from the county's own sources of revenue and payments must equal ten percent of the cost of care, as determined by the commissioner, for each day or portion of a day, that the client spends at the facility. If payments received by the state under this chapter exceed 90 percent of the cost of care, the county is responsible for paying the state the remaining amount. The county is not entitled to reimbursement from the client, the client's estate, or from the client's relatives, except as provided in section 246B.07.

Sec. 17. Minnesota Statutes 2008, section 252.025, subdivision 7, is amended to read:

Subd. 7. **Minnesota extended treatment options.** The commissioner shall develop by July 1, 1997, the Minnesota extended treatment options to serve Minnesotans who have developmental disabilities and exhibit severe behaviors which present a risk to public safety. This program is statewide and must provide specialized residential services in Cambridge and an array of ~~community support~~ community-based services statewide with sufficient levels of care and a sufficient number of specialists to ensure that individuals referred to the program receive the appropriate care. The individuals working in the community-based services under this section are state employees supervised by the commissioner of human services. No layoffs shall occur as a result of restructuring under this section.

**Sec. 18. REQUIRING THE DEVELOPMENT OF COMMUNITY-BASED MENTAL HEALTH SERVICES FOR PATIENTS COMMITTED TO THE ANOKA-METRO REGIONAL TREATMENT CENTER.**

In consultation with community partners, the commissioner of human services shall develop an array of community-based services to transform the current services now provided to patients at

the Anoka-Metro Regional Treatment Center. The community-based services may be provided in facilities with 16 or fewer beds, and must provide the appropriate level of care for the patients being admitted to the facilities. The planning for this transition must be completed by October 1, 2009, with an initial report to the committee chairs of health and human services by November 30, 2009, and a semiannual report on progress until the transition is completed. The commissioner of human services shall solicit interest from stakeholders and potential community partners. The individuals working in the community-based services facilities under this section are state employees supervised by the commissioner of human services. No layoffs shall occur as a result of restructuring under this section.

Sec. 19. **REPEALER.**

Minnesota Statutes 2008, sections 246.51, subdivision 1; and 246.53, subdivision 3, are repealed.

**ARTICLE 4**

**DEPARTMENT OF HEALTH**

Section 1. Minnesota Statutes 2008, section 62J.495, is amended to read:

**62J.495 HEALTH INFORMATION TECHNOLOGY AND INFRASTRUCTURE.**

Subdivision 1. **Implementation.** By January 1, 2015, all hospitals and health care providers must have in place an interoperable electronic health records system within their hospital system or clinical practice setting. The commissioner of health, in consultation with the e-Health Information Technology and Infrastructure Advisory Committee, shall develop a statewide plan to meet this goal, including uniform standards to be used for the interoperable system for sharing and synchronizing patient data across systems. The standards must be compatible with federal efforts. The uniform standards must be developed by January 1, 2009, ~~with a status report on the development of these standards submitted to the legislature by January 15, 2008~~ and updated on an ongoing basis. The commissioner shall include an update on standards development as part of an annual report to the legislature.

Subd. 1a. **Definitions.** (a) "Certified electronic health record technology" means an electronic health record that is certified pursuant to section 3001(c)(5) of the HITECH Act to meet the standards and implementation specifications adopted under section 3004 as applicable.

(b) "Commissioner" means the commissioner of health.

(c) "Pharmaceutical electronic data intermediary" means any entity that provides the infrastructure to connect computer systems or other electronic devices utilized by prescribing practitioners with those used by pharmacies, health plans, third party administrators, and pharmacy benefit manager in order to facilitate the secure transmission of electronic prescriptions, refill authorization requests, communications, and other prescription-related information between such entities.

(d) "HITECH Act" means the Health Information Technology for Economic and Clinical Health Act in division A, title XIII and division B, title IV of the American Recovery and Reinvestment Act of 2009, including federal regulations adopted under that act.

(e) "Interoperable electronic health record" means an electronic health record that securely

exchanges health information with another electronic health record system that meets national requirements for certification under the HITECH Act.

(f) "Qualified electronic health record" means an electronic record of health-related information on an individual that includes patient demographic and clinical health information and has the capacity to:

- (1) provide clinical decision support;
- (2) support physician order entry;
- (3) capture and query information relevant to health care quality; and
- (4) exchange electronic health information with, and integrate such information from, other sources.

Subd. 2. ~~E-Health Information Technology and Infrastructure Advisory Committee.~~ (a) The commissioner shall establish a an e-Health Information Technology and Infrastructure Advisory Committee governed by section 15.059 to advise the commissioner on the following matters:

- (1) assessment of the adoption and effective use of health information technology by the state, licensed health care providers and facilities, and local public health agencies;
- (2) recommendations for implementing a statewide interoperable health information infrastructure, to include estimates of necessary resources, and for determining standards for administrative clinical data exchange, clinical support programs, patient privacy requirements, and maintenance of the security and confidentiality of individual patient data;
- (3) recommendations for encouraging use of innovative health care applications using information technology and systems to improve patient care and reduce the cost of care, including applications relating to disease management and personal health management that enable remote monitoring of patients' conditions, especially those with chronic conditions; and
- (4) other related issues as requested by the commissioner.

(b) The members of the ~~e-Health Information Technology and Infrastructure Advisory Committee~~ shall include the commissioner, or commissioners' designees, of health, human services, administration, and commerce and additional members to be appointed by the commissioner to include persons representing Minnesota's local public health agencies, licensed hospitals and other licensed facilities and providers, private purchasers, the medical and nursing professions, health insurers and health plans, the state quality improvement organization, academic and research institutions, consumer advisory organizations with an interest and expertise in health information technology, and other stakeholders as identified by the ~~Health Information Technology and Infrastructure Advisory Committee~~ commissioner to fulfill the requirements of section 3013, paragraph (g) of the HITECH Act.

(c) The commissioner shall prepare and issue an annual report not later than January 30 of each year outlining progress to date in implementing a statewide health information infrastructure and recommending future projects action on policy and necessary resources to continue the promotion of adoption and effective use of health information technology.

(d) Notwithstanding section 15.059, this subdivision expires June 30, 2015.

Subd. 3. **Interoperable electronic health record requirements.** ~~(a)~~ To meet the requirements of subdivision 1, hospitals and health care providers must meet the following criteria when implementing an interoperable electronic health records system within their hospital system or clinical practice setting.

(a) The electronic health record must be a qualified electronic health record.

~~(b) The electronic health record must be certified by the Certification Commission for Healthcare Information Technology, or its successor Office of the National Coordinator pursuant to the HITECH Act. This criterion only applies to hospitals and health care providers whose practice setting is a practice setting covered by the Certification Commission for Healthcare Information Technology certifications only if a certified electronic health record product for the provider's particular practice setting is available. This criterion shall be considered met if a hospital or health care provider is using an electronic health records system that has been certified within the last three years, even if a more current version of the system has been certified within the three-year period.~~

(c) The electronic health record must meet the standards established according to section 3004 of the HITECH Act as applicable.

(d) The electronic health record must have the ability to generate information on clinical quality measures and other measures reported under sections 4101, 4102, and 4201 of the HITECH Act.

~~(e)~~ (e) A health care provider who is a prescriber or dispenser of controlled substances legend drugs must have an electronic health record system that meets the requirements of section 62J.497.

Subd. 4. **Coordination with national HIT activities.** (a) The commissioner, in consultation with the e-Health Advisory Committee, shall update the statewide implementation plan required under subdivision 2 and released June 2008, to be consistent with the updated Federal HIT Strategic Plan released by the Office of the National Coordinator in accordance with section 3001 of the HITECH Act. The statewide plan shall meet the requirements for a plan required under section 3013 of the HITECH Act.

(b) The commissioner, in consultation with the e-Health Advisory Committee, shall work to ensure coordination between state, regional, and national efforts to support and accelerate efforts to effectively use health information technology to improve the quality and coordination of health care and continuity of patient care among health care providers, to reduce medical errors, to improve population health, to reduce health disparities, and to reduce chronic disease. The commissioner's coordination efforts shall include but not be limited to:

(1) assisting in the development and support of health information technology regional extension centers established under section 3012(c) of the HITECH Act to provide technical assistance and disseminate best practices; and

(2) providing supplemental information to the best practices gathered by regional centers to ensure that the information is relayed in a meaningful way to the Minnesota health care community.

(c) The commissioner, in consultation with the e-Health Advisory Committee, shall monitor national activity related to health information technology and shall coordinate statewide input on policy development. The commissioner shall coordinate statewide responses to proposed federal health information technology regulations in order to ensure that the needs of the Minnesota health care community are adequately and efficiently addressed in the proposed regulations. The



commissioner's responses may include, but are not limited to:

(1) reviewing and evaluating any standard, implementation specification, or certification criteria proposed by the national HIT standards committee;

(2) reviewing and evaluating policy proposed by the national HIT policy committee relating to the implementation of a nationwide health information technology infrastructure;

(3) monitoring and responding to activity related to the development of quality measures and other measures as required by section 4101 of the HITECH Act. Any response related to quality measures shall consider and address the quality efforts required under chapter 62U; and

(4) monitoring and responding to national activity related to privacy, security, and data stewardship of electronic health information and individually identifiable health information.

(d) To the extent that the state is either required or allowed to apply, or designate an entity to apply for or carry out activities and programs under section 3013 of the HITECH Act, the commissioner of health, in consultation with the e-Health Advisory Committee and the commissioner of human services, shall be the lead applicant or sole designating authority. The commissioner shall make such designations consistent with the goals and objectives of sections 62J.495 to 62J.497, and sections 62J.50 to 62J.61.

(e) The commissioner of human services shall apply for funding necessary to administer the incentive payments to providers authorized under title IV of the American Recovery and Reinvestment Act.

(f) The commissioner shall include in the report to the legislature information on the activities of this subdivision and provide recommendations on any relevant policy changes that should be considered in Minnesota.

**Subd. 5. Collection of data for assessment and eligibility determination.** (a) The commissioner of health, in consultation with the commissioner of human services, may require providers, dispensers, group purchasers, and pharmaceutical electronic data intermediaries to submit data in a form and manner specified by the commissioner to assess the status of adoption, effective use, and interoperability of electronic health records for the purpose of:

(1) demonstrating Minnesota's progress on goals established by the Office of the National Coordinator to accelerate the adoption and effective use of health information technology established under the HITECH Act;

(2) assisting the Center for Medicare and Medicaid Services and Department of Human Services in determining eligibility of health care professionals and hospitals to receive federal incentives for the adoption and effective use of health information technology under the HITECH Act or other federal incentive programs;

(3) assisting the Office of the National Coordinator in completing required assessments of the impact of the implementation and effective use of health information technology in achieving goals identified in the national strategic plan, and completing studies required by the HITECH Act;

(4) providing the data necessary to assist the Office of the National Coordinator in conducting evaluations of regional extension centers as required by the HITECH Act; and

(5) other purposes as necessary to support the implementation of the HITECH Act.

(b) The commissioner shall coordinate with the commissioner of human services and other state agencies in the collection of data required under this section to:

(1) avoid duplicative reporting requirements;

(2) maximize efficiencies in the development of reports on state activities as required by HITECH; and

(3) determine health professional and hospital eligibility for incentives available under the HITECH Act.

(c) The commissioner must not collect data or publish analyses that identify, or could potentially identify, individual patients. The commissioner must not collect individual data in identified or de-identified form.

Sec. 2. Minnesota Statutes 2008, section 62J.496, is amended to read:

**62J.496 ELECTRONIC HEALTH RECORD SYSTEM REVOLVING ACCOUNT AND LOAN PROGRAM.**

Subdivision 1. **Account establishment.** (a) An account is established to: provide loans to eligible borrowers to assist in financing the installation or support of an interoperable health record system. The system must provide for the interoperable exchange of health care information between the applicant and, at a minimum, a hospital system, pharmacy, and a health care clinic or other physician group.

(1) finance the purchase of certified electronic health records or qualified electronic health records as defined in section 62J.495, subdivision 1a;

(2) enhance the utilization of electronic health record technology, which may include costs associated with upgrading the technology to meet the criteria necessary to be a certified electronic health record or a qualified electronic health record;

(3) train personnel in the use of electronic health record technology; and

(4) improve the secure electronic exchange of health information.

(b) Amounts deposited in the account, including any grant funds obtained through federal or other sources, loan repayments, and interest earned on the amounts shall be used only for awarding loans or loan guarantees, as a source of reserve and security for leveraged loans, or for the administration of the account.

(c) The commissioner may accept contributions to the account from private sector entities subject to the following provisions:

(1) the contributing entity may not specify the recipient or recipients of any loan issued under this subdivision;

(2) the commissioner shall make public the identity of any private contributor to the loan fund, as well as the amount of the contribution provided; and

(3) the commissioner may issue letters of commendation or make other awards that have no financial value to any such entity.

A contributing entity may not specify that the recipient or recipients of any loan use specific products or services, nor may the contributing entity imply that a contribution is an endorsement of any specific product or service.

(d) The commissioner may use the loan funds to reimburse private sector entities for any contribution made to the loan fund. Reimbursement to private entities may not exceed the principle amount contributed to the loan fund.

(e) The commissioner may use funds deposited in the account to guarantee, or purchase insurance for, a local obligation if the guarantee or purchase would improve credit market access or reduce the interest rate applicable to the obligation involved.

(f) The commissioner may use funds deposited in the account as a source of revenue or security for the payment of principal and interest on revenue or bonds issued by the state if the proceeds of the sale of the bonds will be deposited into the loan fund.

Subd. 2. **Eligibility.** (a) "Eligible borrower" means one of the following:

(1) federally qualified health centers;

~~(1)~~ (2) community clinics, as defined under section 145.9268;

~~(2)~~ (3) nonprofit or local unit of government hospitals eligible for rural hospital capital improvement grants, as defined in section 144.148 licensed under sections 144.50 to 144.56;

~~(3)~~ physician clinics located in a community with a population of less than 50,000 according to United States Census Bureau statistics and outside the seven-county metropolitan area;

(4) individual or small group physician practices that are focused primarily on primary care;

~~(4)~~ (5) nursing facilities licensed under sections 144A.01 to 144A.27; and

(6) local public health departments as defined in chapter 145A; and

~~(5)~~ (7) other providers of health or health care services approved by the commissioner for which interoperable electronic health record capability would improve quality of care, patient safety, or community health.

(b) The commissioner shall administer the loan fund to prioritize support and assistance to:

(1) critical access hospitals;

(2) federally qualified health centers;

(3) entities that serve uninsured, underinsured, and medically underserved individuals, regardless of whether such area is urban or rural; and

(4) individual or small group practices that are primarily focused on primary care.

~~(b) To be eligible for a loan under this section, the~~ (c) An eligible applicant must submit a loan application to the commissioner of health on forms prescribed by the commissioner. The application

must include, at a minimum:

(1) the amount of the loan requested and a description of the purpose or project for which the loan proceeds will be used;

(2) a quote from a vendor;

(3) a description of the health care entities and other groups participating in the project;

(4) evidence of financial stability and a demonstrated ability to repay the loan; and

(5) a description of how the system to be financed ~~interconnects~~ interoperates or plans in the future to ~~interconnect~~ interoperate with other health care entities and provider groups located in the same geographical area;

(6) a plan on how the certified electronic health record technology will be maintained and supported over time; and

(7) any other requirements for applications included or developed pursuant to section 3014 of the HITECH Act.

Subd. 3. **Loans.** (a) The commissioner of health may make a no interest loan or low interest loan to a provider or provider group who is eligible under subdivision 2 on a first-come, first-served basis provided that the applicant is able to comply with this section consistent with the priorities established in subdivision 2. The total accumulative loan principal must not exceed \$1,500,000 \$3,000,000 per loan. The interest rate for each loan, if imposed, shall not exceed the current market interest rate. The commissioner of health has discretion over the size, interest rate, and number of loans made. Nothing in this section shall require the commissioner to make a loan to an eligible borrower under subdivision 2.

(b) The commissioner of health may prescribe forms and establish an application process and, notwithstanding section 16A.1283, may impose a reasonable nonrefundable application fee to cover the cost of administering the loan program. Any application fees imposed and collected under the electronic health records system revolving account and loan program in this section are appropriated to the commissioner of health for the duration of the loan program. The commissioner may apply for and use all federal funds available through the HITECH Act to administer the loan program.

(c) For loans approved prior to July 1, 2009, the borrower must begin repaying the principal no later than two years from the date of the loan. Loans must be amortized no later than six years from the date of the loan.

(d) For loans granted on January 1, 2010, or thereafter, the borrower must begin repaying the principle no later than one year from the date of the loan. Loans must be amortized no later than six years after the date of the loan.

~~(d) Repayments~~ (e) All repayments and interest paid on each loan must be credited to the account.

(f) The loan agreement shall include the assurances that borrower meets requirements included or developed pursuant to section 3014 of the HITECH Act. The requirements shall include, but are not limited to:

(1) submitting reports on quality measures in compliance with regulations adopted by the federal

government;

(2) demonstrating that any certified electronic health record technology purchased, improved, or otherwise financially supported by this loan program is used to exchange health information in a manner that, in accordance with law and standards applicable to the exchange of information, improves the quality of health care;

(3) including a plan on how the borrower intends to maintain and support the certified electronic health record technology over time and the resources expected to be used to maintain and support the technology purchased with the loan; and

(4) complying with other requirements the secretary may require to use loans funds under the HITECH Act.

Subd. 4. **Data classification.** Data collected by the commissioner of health on the application to determine eligibility under subdivision 2 and to monitor borrowers' default risk or collect payments owed under subdivision 3 are (1) private data on individuals as defined in section 13.02, subdivision 12; and (2) nonpublic data as defined in section 13.02, subdivision 9. The names of borrowers and the amounts of the loans granted are public data.

Sec. 3. Minnesota Statutes 2008, section 62J.497, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For the purposes of this section, the following terms have the meanings given.

(a) "Backward compatible" means that the newer version of a data transmission standard would retain, at a minimum, the full functionality of the versions previously adopted, and would permit the successful completion of the applicable transactions with entities that continue to use the older versions.

~~(a)~~ (b) "Dispense" or "dispensing" has the meaning given in section 151.01, subdivision 30. Dispensing does not include the direct administering of a controlled substance to a patient by a licensed health care professional.

~~(b)~~ (c) "Dispenser" means a person authorized by law to dispense a controlled substance, pursuant to a valid prescription.

~~(c)~~ (d) "Electronic media" has the meaning given under Code of Federal Regulations, title 45, part 160.103.

~~(d)~~ (e) "E-prescribing" means the transmission using electronic media of prescription or prescription-related information between a prescriber, dispenser, pharmacy benefit manager, or group purchaser, either directly or through an intermediary, including an e-prescribing network. E-prescribing includes, but is not limited to, two-way transmissions between the point of care and the dispenser and two-way transmissions related to eligibility, formulary, and medication history information.

~~(e)~~ (f) "Electronic prescription drug program" means a program that provides for e-prescribing.

~~(f)~~ (g) "Group purchaser" has the meaning given in section 62J.03, subdivision 6.

~~(g)~~ (h) "HL7 messages" means a standard approved by the standards development organization

known as Health Level Seven.

~~(h)~~ (i) "National Provider Identifier" or "NPI" means the identifier described under Code of Federal Regulations, title 45, part 162.406.

~~(i)~~ (j) "NCPDP" means the National Council for Prescription Drug Programs, Inc.

~~(j)~~ (k) "NCPDP Formulary and Benefits Standard" means the National Council for Prescription Drug Programs Formulary and Benefits Standard, Implementation Guide, Version 1, Release 0, October 2005.

~~(k)~~ (l) "NCPDP SCRIPT Standard" means the National Council for Prescription Drug Programs Prescriber/Pharmacist Interface SCRIPT Standard, Implementation Guide Version 8, Release 1 (Version 8.1), October 2005, or the most recent standard adopted by the Centers for Medicare and Medicaid Services for e-prescribing under Medicare Part D as required by section 1860D-4(e)(4)(D) of the Social Security Act, and regulations adopted under it. The standards shall be implemented according to the Centers for Medicare and Medicaid Services schedule for compliance. Subsequently released versions of the NCPDP SCRIPT Standard may be used, provided that the new version of the standard is backward compatible to the current version adopted by the Centers for Medicare and Medicaid Services.

~~(l)~~ (m) "Pharmacy" has the meaning given in section 151.01, subdivision 2.

~~(m)~~ (n) "Prescriber" means a licensed health care professional who is authorized to prescribe a controlled substance under section 152.12, subdivision 1, practitioner, other than a veterinarian, as defined in section 151.01, subdivision 23.

~~(n)~~ (o) "Prescription-related information" means information regarding eligibility for drug benefits, medication history, or related health or drug information.

~~(o)~~ (p) "Provider" or "health care provider" has the meaning given in section 62J.03, subdivision 8.

Sec. 4. Minnesota Statutes 2008, section 62J.497, subdivision 2, is amended to read:

Subd. 2. **Requirements for electronic prescribing.** (a) Effective January 1, 2011, all providers, group purchasers, prescribers, and dispensers must establish and, maintain, and use an electronic prescription drug program that complies. This program must comply with the applicable standards in this section for transmitting, directly or through an intermediary, prescriptions and prescription-related information using electronic media.

(b) ~~Nothing in this section requires providers, group purchasers, prescribers, or dispensers to conduct the transactions described in this section.~~ If transactions described in this section are conducted, they must be done electronically using the standards described in this section. Nothing in this section requires providers, group purchasers, prescribers, or dispensers to electronically conduct transactions that are expressly prohibited by other sections or federal law.

(c) Providers, group purchasers, prescribers, and dispensers must use either HL7 messages or the NCPDP SCRIPT Standard to transmit prescriptions or prescription-related information internally when the sender and the recipient are part of the same legal entity. If an entity sends prescriptions outside the entity, it must use the NCPDP SCRIPT Standard or other applicable

standards required by this section. Any pharmacy within an entity must be able to receive electronic prescription transmittals from outside the entity using the adopted NCPDP SCRIPT Standard. This exemption does not supersede any Health Insurance Portability and Accountability Act (HIPAA) requirement that may require the use of a HIPAA transaction standard within an organization.

~~(d) Entities transmitting prescriptions or prescription-related information where the prescriber is required by law to issue a prescription for a patient to a nonprescribing provider that in turn forwards the prescription to a dispenser are exempt from the requirement to use the NCPDP SCRIPT Standard when transmitting prescriptions or prescription-related information.~~

Sec. 5. Minnesota Statutes 2008, section 62J.497, is amended by adding a subdivision to read:

Subd. 4. **Development and use of uniform formulary exception form.** (a) The commissioner of health, in consultation with the Minnesota Administrative Uniformity Committee, shall develop by July 1, 2009, or six weeks after enactment of this subdivision, whichever is later, a uniform formulary exception form that allows health care providers to request exceptions from group purchaser formularies using a uniform form. Upon development of the form, all health care providers must submit requests for formulary exceptions using the uniform form, and all group purchasers must accept this form from health care providers.

(b) No later than January 1, 2011, the uniform formulary exception form must be accessible and submitted by health care providers, and accepted and processed by group purchasers, through secure electronic transmissions. Facsimile shall not be considered secure electronic transmissions.

Sec. 6. Minnesota Statutes 2008, section 62J.497, is amended by adding a subdivision to read:

Subd. 5. **Electronic drug prior authorization standardization and transmission.** (a) The commissioner of health, in consultation with the Minnesota e-Health Advisory Committee and the Minnesota Administrative Uniformity Committee, shall, by February 15, 2010, identify an outline on how best to standardize drug prior authorization request transactions between providers and group purchasers with the goal of maximizing administrative simplification and efficiency in preparation for electronic transmissions.

(b) No later than January 1, 2011, drug prior authorization requests must be accessible and submitted by health care providers, and accepted and processed by group purchasers, electronically through secure electronic transmissions. Facsimile shall not be considered electronic transmission.

Sec. 7. **[62Q.676] MEDICATION THERAPY MANAGEMENT.**

A pharmacy benefit manager that provides prescription drug services must make available medication therapy management services for enrollees taking four or more prescriptions to treat or prevent two or more chronic medical conditions. For purposes of this section, "medication therapy management" means the provision of the following pharmaceutical care services by, or under the supervision of, a licensed pharmacist to optimize the therapeutic outcomes of the patient's medications:

(1) performing a comprehensive medication review to identify, resolve, and prevent medication-related problems, including adverse drug events;

(2) communicating essential information to the patient's other primary care providers; and

(3) providing verbal education and training designed to enhance patient understanding and appropriate use of the patient's medications.

Nothing in this section shall be construed to expand or modify the scope of practice of the pharmacist as defined in section 151.01, subdivision 27.

Sec. 8. Minnesota Statutes 2008, section 144.122, is amended to read:

**144.122 LICENSE, PERMIT, AND SURVEY FEES.**

(a) The state commissioner of health, by rule, may prescribe procedures and fees for filing with the commissioner as prescribed by statute and for the issuance of original and renewal permits, licenses, registrations, and certifications issued under authority of the commissioner. The expiration dates of the various licenses, permits, registrations, and certifications as prescribed by the rules shall be plainly marked thereon. Fees may include application and examination fees and a penalty fee for renewal applications submitted after the expiration date of the previously issued permit, license, registration, and certification. The commissioner may also prescribe, by rule, reduced fees for permits, licenses, registrations, and certifications when the application therefor is submitted during the last three months of the permit, license, registration, or certification period. Fees proposed to be prescribed in the rules shall be first approved by the Department of Finance. All fees proposed to be prescribed in rules shall be reasonable. The fees shall be in an amount so that the total fees collected by the commissioner will, where practical, approximate the cost to the commissioner in administering the program. All fees collected shall be deposited in the state treasury and credited to the state government special revenue fund unless otherwise specifically appropriated by law for specific purposes.

(b) The commissioner may charge a fee for voluntary certification of medical laboratories and environmental laboratories, and for environmental and medical laboratory services provided by the department, without complying with paragraph (a) or chapter 14. Fees charged for environment and medical laboratory services provided by the department must be approximately equal to the costs of providing the services.

(c) The commissioner may develop a schedule of fees for diagnostic evaluations conducted at clinics held by the services for children with disabilities program. All receipts generated by the program are annually appropriated to the commissioner for use in the maternal and child health program.

(d) The commissioner shall set license fees for hospitals and nursing homes that are not boarding care homes at the following levels:

Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and American Osteopathic Association (AOA) hospitals	<del>\$7,555</del> <u>\$7,655</u> plus <del>\$13</del> <u>\$16</u> per bed
Non-JCAHO and non-AOA hospitals	<del>\$5,180</del> <u>\$5,280</u> plus <del>\$247</del> <u>\$250</u> per bed
Nursing home	\$183 plus \$91 per bed

The commissioner shall set license fees for outpatient surgical centers, boarding care homes, and supervised living facilities at the following levels:



Outpatient surgical centers	\$3,349\$3,712
Boarding care homes	\$183 plus \$91 per bed
Supervised living facilities	\$183 plus \$91 per bed.

(e) Unless prohibited by federal law, the commissioner of health shall charge applicants the following fees to cover the cost of any initial certification surveys required to determine a provider's eligibility to participate in the Medicare or Medicaid program:

Prospective payment surveys for hospitals	\$	900
Swing bed surveys for nursing homes	\$	1,200
Psychiatric hospitals	\$	1,400
Rural health facilities	\$	1,100
Portable x-ray providers	\$	500
Home health agencies	\$	1,800
Outpatient therapy agencies	\$	800
End stage renal dialysis providers	\$	2,100
Independent therapists	\$	800
Comprehensive rehabilitation outpatient facilities	\$	1,200
Hospice providers	\$	1,700
Ambulatory surgical providers	\$	1,800
Hospitals	\$	4,200
Other provider categories or additional resurveys required to complete initial certification		Actual surveyor costs: average surveyor cost x number of hours for the survey process.

These fees shall be submitted at the time of the application for federal certification and shall not be refunded. All fees collected after the date that the imposition of fees is not prohibited by federal law shall be deposited in the state treasury and credited to the state government special revenue fund.

Sec. 9. Minnesota Statutes 2008, section 144.226, subdivision 4, is amended to read:

Subd. 4. **Vital records surcharge.** (a) In addition to any fee prescribed under subdivision 1, there is a nonrefundable surcharge of \$2 for each certified and noncertified birth, stillbirth, or death record, and for a certification that the record cannot be found. The local or state registrar shall forward this amount to the commissioner of finance to be deposited into the state government special revenue fund. This surcharge shall not be charged under those circumstances in which no fee for a birth, stillbirth, or death record is permitted under subdivision 1, paragraph (a).

(b) Effective August 1, 2005, ~~to June 30, 2009,~~ the surcharge in paragraph (a) ~~shall be~~ is \$4.

Sec. 10. Minnesota Statutes 2008, section 148.6445, is amended by adding a subdivision to read:

Subd. 2a. Duplicate license fee. The fee for a duplicate license is \$25.

## ARTICLE 5

### HEALTH CARE

Section 1. Minnesota Statutes 2008, section 60A.092, subdivision 2, is amended to read:

Subd. 2. **Licensed assuming insurer.** Reinsurance is ceded to an assuming insurer if the assuming insurer is licensed to transact insurance or reinsurance in this state. For purposes of reinsuring any health risk, an insurer is defined under section 62A.63.

Sec. 2. Minnesota Statutes 2008, section 62D.03, subdivision 4, is amended to read:

Subd. 4. **Application requirements.** Each application for a certificate of authority shall be verified by an officer or authorized representative of the applicant, and shall be in a form prescribed by the commissioner of health. Each application shall include the following:

(a) a copy of the basic organizational document, if any, of the applicant and of each major participating entity; such as the articles of incorporation, or other applicable documents, and all amendments thereto;

(b) a copy of the bylaws, rules and regulations, or similar document, if any, and all amendments thereto which regulate the conduct of the affairs of the applicant and of each major participating entity;

(c) a list of the names, addresses, and official positions of the following:

(1) all members of the board of directors, or governing body of the local government unit, and the principal officers and shareholders of the applicant organization; and

(2) all members of the board of directors, or governing body of the local government unit, and the principal officers of the major participating entity and each shareholder beneficially owning more than ten percent of any voting stock of the major participating entity;

The commissioner may by rule identify persons included in the term "principal officers";

(d) a full disclosure of the extent and nature of any contract or financial arrangements between the following:

(1) the health maintenance organization and the persons listed in clause (c)(1);

(2) the health maintenance organization and the persons listed in clause (c)(2);

(3) each major participating entity and the persons listed in clause (c)(1) concerning any financial relationship with the health maintenance organization; and

(4) each major participating entity and the persons listed in clause (c)(2) concerning any financial relationship with the health maintenance organization;

(e) the name and address of each participating entity and the agreed upon duration of each contract or agreement;

(f) a copy of the form of each contract binding the participating entities and the health

maintenance organization. Contractual provisions shall be consistent with the purposes of sections 62D.01 to 62D.30, in regard to the services to be performed under the contract, the manner in which payment for services is determined, the nature and extent of responsibilities to be retained by the health maintenance organization, the nature and extent of risk sharing permissible, and contractual termination provisions;

(g) a copy of each contract binding major participating entities and the health maintenance organization. Contract information filed with the commissioner shall be confidential and subject to the provisions of section 13.37, subdivision 1, clause (b), upon the request of the health maintenance organization.

Upon initial filing of each contract, the health maintenance organization shall file a separate document detailing the projected annual expenses to the major participating entity in performing the contract and the projected annual revenues received by the entity from the health maintenance organization for such performance. The commissioner shall disapprove any contract with a major participating entity if the contract will result in an unreasonable expense under section 62D.19. The commissioner shall approve or disapprove a contract within 30 days of filing.

Within 120 days of the anniversary of the implementation of each contract, the health maintenance organization shall file a document detailing the actual expenses incurred and reported by the major participating entity in performing the contract in the preceding year and the actual revenues received from the health maintenance organization by the entity in payment for the performance;

(h) a statement generally describing the health maintenance organization, its health maintenance contracts and separate health service contracts, facilities, and personnel, including a statement describing the manner in which the applicant proposes to provide enrollees with comprehensive health maintenance services and separate health services;

(i) a copy of the form of each evidence of coverage to be issued to the enrollees;

(j) a copy of the form of each individual or group health maintenance contract and each separate health service contract which is to be issued to enrollees or their representatives;

(k) financial statements showing the applicant's assets, liabilities, and sources of financial support. If the applicant's financial affairs are audited by independent certified public accountants, a copy of the applicant's most recent certified financial statement may be deemed to satisfy this requirement;

(l) a description of the proposed method of marketing the plan, a schedule of proposed charges, and a financial plan which includes a three-year projection of the expenses and income and other sources of future capital;

(m) a statement reasonably describing the geographic area or areas to be served and the type or types of enrollees to be served;

(n) a description of the complaint procedures to be utilized as required under section 62D.11;

(o) a description of the procedures and programs to be implemented to meet the requirements of section 62D.04, subdivision 1, clauses (b) and (c) and to monitor the quality of health care provided to enrollees;

(p) a description of the mechanism by which enrollees will be afforded an opportunity to participate in matters of policy and operation under section 62D.06;

(q) a copy of any agreement between the health maintenance organization and an insurer ~~or, including any nonprofit health service corporation or another health maintenance organization,~~ regarding reinsurance, stop-loss coverage, insolvency coverage, or any other type of coverage for potential costs of health services, as authorized in sections 62D.04, subdivision 1, clause (f), 62D.05, subdivision 3, and 62D.13;

(r) a copy of the conflict of interest policy which applies to all members of the board of directors and the principal officers of the health maintenance organization, as described in section 62D.04, subdivision 1, paragraph (g). All currently licensed health maintenance organizations shall also file a conflict of interest policy with the commissioner within 60 days after August 1, 1990, or at a later date if approved by the commissioner;

(s) a copy of the statement that describes the health maintenance organization's prior authorization administrative procedures; and

(t) other information as the commissioner of health may reasonably require to be provided.

Sec. 3. Minnesota Statutes 2008, section 62D.05, subdivision 3, is amended to read:

Subd. 3. **Contracts; health services.** A health maintenance organization may contract with providers of health care services to render the services the health maintenance organization has promised to provide under the terms of its health maintenance contracts, may, subject to section 62D.12, subdivision 11, enter into separate prepaid dental contracts, or other separate health service contracts, may, subject to the limitations of section 62D.04, subdivision 1, clause (f), contract with insurance companies and, including nonprofit health service plan corporations or other health maintenance organizations, for insurance, indemnity or reimbursement of its cost of providing health care services for enrollees or against the risks incurred by the health maintenance organization, may contract with insurance companies and nonprofit health service plan corporations for insolvency insurance coverage, and may contract with insurance companies and nonprofit health service plan corporations to insure or cover the enrollees' costs and expenses in the health maintenance organization, including the customary prepayment amount and any co-payment obligations, and may contract to provide reinsurance or insolvency insurance coverage to health insurers or nonprofit health service plan corporations.

Sec. 4. Minnesota Statutes 2008, section 62J.692, subdivision 7, is amended to read:

Subd. 7. **Transfers from the commissioner of human services.** ~~(a) The amount transferred according to section 256B.69, subdivision 5c, paragraph (a), clause (1), shall be distributed by the commissioner annually to clinical medical education programs that meet the qualifications of subdivision 3 based on the formula in subdivision 4, paragraph (a)~~ Of the amount transferred according to section 256B.69, subdivision 5c, paragraph (a), clauses (1) to (4), \$21,714,000 shall be distributed as follows:

(1) \$2,157,000 shall be distributed by the commissioner to the University of Minnesota Board of Regents for the purposes described in sections 137.38 to 137.40;

(2) \$1,035,360 shall be distributed by the commissioner to the Hennepin County Medical Center for clinical medical education;

(3) \$17,400,000 shall be distributed by the commissioner to the University of Minnesota Board of Regents for purposes of medial education;

(4) \$1,121,640 shall be distributed by the commissioner to clinical medical education dental innovation grants in accordance with subdivision 7a; and

(5) the remainder of the amount transferred according to section 256B.69, subdivision 5c, clauses (1) to (4), shall be distributed by the commissioner annually to clinical medical education programs that meet the qualifications of subdivision 3 based on the formula in subdivision 4, paragraph (a).

~~(b) Fifty percent of the amount transferred according to section 256B.69, subdivision 5c, paragraph (a), clause (2), shall be distributed by the commissioner to the University of Minnesota Board of Regents for the purposes described in sections 137.38 to 137.40. Of the remaining amount transferred according to section 256B.69, subdivision 5c, paragraph (a), clause (2), 24 percent of the amount shall be distributed by the commissioner to the Hennepin County Medical Center for clinical medical education. The remaining 26 percent of the amount transferred shall be distributed by the commissioner in accordance with subdivision 7a. If the federal approval is not obtained for the matching funds under section 256B.69, subdivision 5c, paragraph (a), clause (2), 100 percent of the amount transferred under this paragraph shall be distributed by the commissioner to the University of Minnesota Board of Regents for the purposes described in sections 137.38 to 137.40.~~

~~(c) The amount transferred according to section 256B.69, subdivision 5c, paragraph (a), clauses (3) and (4), shall be distributed by the commissioner upon receipt to the University of Minnesota Board of Regents for the purposes of clinical graduate medical education.~~

Sec. 5. Minnesota Statutes 2008, section 256.01, subdivision 2b, is amended to read:

Subd. 2b. **Performance payments.** (a) The commissioner shall develop and implement a pay-for-performance system to provide performance payments to eligible medical groups and clinics that demonstrate optimum care in serving individuals with chronic diseases who are enrolled in health care programs administered by the commissioner under chapters 256B, 256D, and 256L. The commissioner may receive any federal matching money that is made available through the medical assistance program for managed care oversight contracted through vendors, including consumer surveys, studies, and external quality reviews as required by the federal Balanced Budget Act of 1997, Code of Federal Regulations, title 42, part 438-managed care, subpart E-external quality review. Any federal money received for managed care oversight is appropriated to the commissioner for this purpose. The commissioner may expend the federal money received in either year of the biennium.

~~(b) Effective July 1, 2008, or upon federal approval, whichever is later, the commissioner shall develop and implement a patient incentive health program to provide incentives and rewards to patients who are enrolled in health care programs administered by the commissioner under chapters 256B, 256D, and 256L, and who have agreed to and have met personal health goals established with the patients' primary care providers to manage a chronic disease or condition, including but not limited to diabetes, high blood pressure, and coronary artery disease.~~

Sec. 6. Minnesota Statutes 2008, section 256.01, is amended by adding a subdivision to read:

Subd. 18a. **Public Assistance Reporting Information System.** (a) Effective October 1, 2009, the commissioner shall comply with the federal requirements in Public Law 110-379 in

implementing the Public Assistance Reporting Information System (PARIS) to determine eligibility for all individuals applying for:

(1) health care benefits under chapters 256B, 256D, and 256L; and

(2) public benefits under chapters 119B, 256D, 256I, and the supplemental nutrition assistance program.

(b) The commissioner shall determine eligibility under paragraph (a) by performing data matches, including matching with medical assistance, cash, child care, and supplemental assistance programs operated by other states.

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

Sec. 7. Minnesota Statutes 2008, section 256.01, is amended by adding a subdivision to read:

Subd. 18b. **Protections for American Indians.** Effective February 18, 2009, the commissioner shall comply with the federal requirements in the American Recovery and Reinvestment Act of 2009, Public Law 111-5, section 5006, regarding American Indians.

Sec. 8. Minnesota Statutes 2008, section 256.962, subdivision 2, is amended to read:

Subd. 2. **Outreach grants.** (a) The commissioner shall award grants to public and private organizations, regional collaboratives, and regional health care outreach centers for outreach activities, including, but not limited to:

(1) providing information, applications, and assistance in obtaining coverage through Minnesota public health care programs;

(2) collaborating with public and private entities such as hospitals, providers, health plans, legal aid offices, pharmacies, insurance agencies, and faith-based organizations to develop outreach activities and partnerships to ensure the distribution of information and applications and provide assistance in obtaining coverage through Minnesota health care programs; ~~and~~

(3) providing or collaborating with public and private entities to provide multilingual and culturally specific information and assistance to applicants in areas of high uninsurance in the state or populations with high rates of uninsurance; and

(4) targeting geographic areas with high rates of (i) eligible but unenrolled children, including children who reside in rural areas, or (ii) racial and ethnic minorities and health disparity populations.

(b) The commissioner shall ensure that all outreach materials are available in languages other than English.

(c) The commissioner shall establish an outreach trainer program to provide training to designated individuals from the community and public and private entities on application assistance in order for these individuals to provide training to others in the community on an as-needed basis.

Sec. 9. Minnesota Statutes 2008, section 256.962, subdivision 6, is amended to read:

Subd. 6. **School districts and charter schools.** (a) At the beginning of each school year, a school district or charter school shall provide information to each student on the availability of health care coverage through the Minnesota health care programs and how to obtain an application for the

Minnesota health care programs.

~~(b) For each child who is determined to be eligible for the free and reduced-price school lunch program, the district shall provide the child's family with information on how to obtain an application for the Minnesota health care programs and application assistance.~~

(e) A school district or charter school shall also ensure that applications and information on application assistance are available at early childhood education sites and public schools located within the district's jurisdiction.

~~(c)~~ (c) Each district shall designate an enrollment specialist to provide application assistance and follow-up services with families who have indicated an interest in receiving information or an application for the Minnesota health care program. A district is eligible for the application assistance bonus described in subdivision 5.

~~(d)~~ (d) If a school district or charter school maintains a district Web site, the school district or charter school shall provide on ~~their~~ its Web site a link to information on how to obtain an application and application assistance.

**Sec. 10. [256.964] DENTAL CARE PILOT PROJECTS.**

The commissioner shall authorize pilot projects to reduce the total cost to the state for dental services provided to enrollees of the state public health care programs by reducing hospital emergency room costs for preventable or nonemergency dental services. As part of the project, a community dental clinic or dental provider, in collaboration with a hospital emergency room, shall provide urgent care dental services as an alternative to the hospital emergency room for nonemergency dental care. The project participants shall establish a process to divert a patient presenting at the emergency room for nonemergency dental care to the dental community clinic or to an appropriate dental provider. The commissioner may establish special payment rates for urgent care services provided and may change or waive existing payment policies in order to adequately reimburse providers for providing cost-effective alternative services in an outpatient or urgent care setting. The commissioner may establish a project in conjunction with the initiative authorized under section 256.963.

Sec. 11. Minnesota Statutes 2008, section 256.969, subdivision 2b, is amended to read:

Subd. 2b. **Operating payment rates.** In determining operating payment rates for admissions occurring on or after the rate year beginning January 1, 1991, and every two years after, or more frequently as determined by the commissioner, the commissioner shall obtain operating data from an updated base year and establish operating payment rates per admission for each hospital based on the cost-finding methods and allowable costs of the Medicare program in effect during the base year. Rates under the general assistance medical care, medical assistance, and MinnesotaCare programs shall not be rebased to more current data on January 1, 1997, January 1, 2005, and for the first 24 months of the rebased period beginning January 1, 2009, and for the first three months of the rebased period beginning January 1, 2011. From April 1, 2011, to March 31, 2012, rates shall be rebased at 39.2 percent of the full value of the rebasing percentage change. Effective April 1, 2012, rates shall be rebased at full value. The base year operating payment rate per admission is standardized by the case mix index and adjusted by the hospital cost index, relative values, and disproportionate population adjustment. The cost and charge data used to establish operating rates shall only reflect inpatient services covered by medical assistance and shall not include property cost information and

costs recognized in outlier payments.

Sec. 12. Minnesota Statutes 2008, section 256.969, subdivision 3a, is amended to read:

Subd. 3a. **Payments.** (a) Acute care hospital billings under the medical assistance program must not be submitted until the recipient is discharged. However, the commissioner shall establish monthly interim payments for inpatient hospitals that have individual patient lengths of stay over 30 days regardless of diagnostic category. Except as provided in section 256.9693, medical assistance reimbursement for treatment of mental illness shall be reimbursed based on diagnostic classifications. Individual hospital payments established under this section and sections 256.9685, 256.9686, and 256.9695, in addition to third party and recipient liability, for discharges occurring during the rate year shall not exceed, in aggregate, the charges for the medical assistance covered inpatient services paid for the same period of time to the hospital. This payment limitation shall be calculated separately for medical assistance and general assistance medical care services. The limitation on general assistance medical care shall be effective for admissions occurring on or after July 1, 1991. Services that have rates established under subdivision 11 or 12, must be limited separately from other services. After consulting with the affected hospitals, the commissioner may consider related hospitals one entity and may merge the payment rates while maintaining separate provider numbers. The operating and property base rates per admission or per day shall be derived from the best Medicare and claims data available when rates are established. The commissioner shall determine the best Medicare and claims data, taking into consideration variables of recency of the data, audit disposition, settlement status, and the ability to set rates in a timely manner. The commissioner shall notify hospitals of payment rates by December 1 of the year preceding the rate year. The rate setting data must reflect the admissions data used to establish relative values. Base year changes from 1981 to the base year established for the rate year beginning January 1, 1991, and for subsequent rate years, shall not be limited to the limits ending June 30, 1987, on the maximum rate of increase under subdivision 1. The commissioner may adjust base year cost, relative value, and case mix index data to exclude the costs of services that have been discontinued by the October 1 of the year preceding the rate year or that are paid separately from inpatient services. Inpatient stays that encompass portions of two or more rate years shall have payments established based on payment rates in effect at the time of admission unless the date of admission preceded the rate year in effect by six months or more. In this case, operating payment rates for services rendered during the rate year in effect and established based on the date of admission shall be adjusted to the rate year in effect by the hospital cost index.

(b) For fee-for-service admissions occurring on or after July 1, 2002, the total payment, before third-party liability and spenddown, made to hospitals for inpatient services is reduced by .5 percent from the current statutory rates.

(c) In addition to the reduction in paragraph (b), the total payment for fee-for-service admissions occurring on or after July 1, 2003, made to hospitals for inpatient services before third-party liability and spenddown, is reduced five percent from the current statutory rates. Mental health services within diagnosis related groups 424 to 432, and facilities defined under subdivision 16 are excluded from this paragraph.

(d) In addition to the reduction in paragraphs (b) and (c), the total payment for fee-for-service admissions occurring on or after July 1, 2005, made to hospitals for inpatient services before third-party liability and spenddown, is reduced 6.0 percent from the current statutory rates. Mental health services within diagnosis related groups 424 to 432 and facilities defined under subdivision



16 are excluded from this paragraph. Notwithstanding section 256.9686, subdivision 7, for purposes of this paragraph, medical assistance does not include general assistance medical care. Payments made to managed care plans shall be reduced for services provided on or after January 1, 2006, to reflect this reduction.

(e) In addition to the reductions in paragraphs (b), (c), and (d), the total payment for fee-for-service admissions occurring on or after July 1, 2008, through June 30, 2009, made to hospitals for inpatient services before third-party liability and spenddown, is reduced 3.46 percent from the current statutory rates. Mental health services with diagnosis related groups 424 to 432 and facilities defined under subdivision 16 are excluded from this paragraph. Payments made to managed care plans shall be reduced for services provided on or after January 1, 2009, through June 30, 2009, to reflect this reduction.

(f) In addition to the reductions in paragraphs (b), (c), and (d), the total payment for fee-for-service admissions occurring on or after July 1, 2009, through June 30, 2010, made to hospitals for inpatient services before third-party liability and spenddown, is reduced 1.9 percent from the current statutory rates. Mental health services with diagnosis related groups 424 to 432 and facilities defined under subdivision 16 are excluded from this paragraph. Payments made to managed care plans shall be reduced for services provided on or after July 1, 2009, through June 30, 2010, to reflect this reduction.

(g) In addition to the reductions in paragraphs (b), (c), and (d), the total payment for fee-for-service admissions occurring on or after July 1, 2010, made to hospitals for inpatient services before third-party liability and spenddown, is reduced 1.79 percent from the current statutory rates. Mental health services with diagnosis related groups 424 to 432 and facilities defined under subdivision 16 are excluded from this paragraph. Payments made to managed care plans shall be reduced for services provided on or after July 1, 2010, to reflect this reduction.

(h) In addition to the reductions in paragraphs (b), (c), (d), (f), and (g), the total payment for fee-for-service admissions occurring on or after July 1, 2009, made to hospitals for inpatient services before third-party liability and spenddown, is reduced one percent from the current statutory rates. Facilities defined under subdivision 16 are excluded from this paragraph. Payments made to managed care plans shall be reduced for services provided on or after October 1, 2009, to reflect this reduction.

Sec. 13. Minnesota Statutes 2008, section 256.969, is amended by adding a subdivision to read:

Subd. 3b. **Nonpayment for hospital-acquired conditions and for certain treatments.** (a) The commissioner must not make medical assistance payments to a hospital for any costs of care that result from a condition listed in paragraph (c), if the condition was hospital acquired.

(b) For purposes of this subdivision, a condition is hospital acquired if it is not identified by the hospital as present on admission. For purposes of this subdivision, medical assistance includes general assistance medical care and MinnesotaCare.

(c) The prohibition in paragraph (a) applies to payment for each hospital-acquired condition listed in this paragraph that is represented by an ICD-9-CM diagnosis code and is designated as a complicating condition or a major complicating condition:

(1) foreign object retained after surgery (ICD-9-CM codes 998.4 or 998.7);

- (2) air embolism (ICD-9-CM code 999.1);
  - (3) blood incompatibility (ICD-9-CM code 999.6);
  - (4) pressure ulcers stage III or IV (ICD-9-CM codes 707.23 or 707.24);
  - (5) falls and trauma, including fracture, dislocation, intracranial injury, crushing injury, burn, and electric shock (ICD-9-CM codes with these ranges on the complicating condition and major complicating condition list: 800-829; 830-839; 850-854; 925-929; 940-949; and 991-994);
  - (6) catheter-associated urinary tract infection (ICD-9-CM code 996.64);
  - (7) vascular catheter-associated infection (ICD-9-CM code 999.31);
  - (8) manifestations of poor glycemic control (ICD-9-CM codes 249.10; 249.11; 249.20; 249.21; 250.10; 250.11; 250.12; 250.13; 250.20; 250.21; 250.22; 250.23; and 251.0);
  - (9) surgical site infection (ICD-9-CM codes 996.67 or 998.59) following certain orthopedic procedures (procedure codes 81.01; 81.02; 81.03; 81.04; 81.05; 81.06; 81.07; 81.08; 81.23; 81.24; 81.31; 81.32; 81.33; 81.34; 81.35; 81.36; 81.37; 81.38; 81.83; and 81.85);
  - (10) surgical site infection (ICD-9-CM code 998.59) following bariatric surgery (procedure codes 44.38; 44.39; or 44.95) for a principal diagnosis of morbid obesity (ICD-9-CM code 278.01);
  - (11) surgical site infection, mediastinitis (ICD-9-CM code 519.2) following coronary artery bypass graft (procedure codes 36.10 to 36.19); and
  - (12) deep vein thrombosis (ICD-9-CM codes 453.40 to 453.42) or pulmonary embolism (ICD-9-CM codes 415.11 or 415.91) following total knee replacement (procedure code 81.54) or hip replacement (procedure codes 00.85 to 00.87 or 81.51 to 81.52).
- (d) The prohibition in paragraph (a) applies to any additional payments that result from a hospital-acquired condition listed in paragraph (c), including, but not limited to, additional treatment or procedures, readmission to the facility after discharge, increased length of stay, change to a higher diagnostic category, or transfer to another hospital. In the event of a transfer to another hospital, the hospital where the condition listed under paragraph (c) was acquired is responsible for any costs incurred at the hospital to which the patient is transferred.
- (e) A hospital shall not bill a recipient of services for any payment disallowed under this subdivision.

Sec. 14. Minnesota Statutes 2008, section 256.969, is amended by adding a subdivision to read:

Subd. 28. **Temporary rate increase for qualifying hospitals.** For the period from April 1, 2009, to September 30, 2010, for each hospital with a medical assistance utilization rate equal to or greater than 25 percent during the base year, the commissioner shall provide an equal percentage rate increase for each medical assistance admission. The commissioner shall estimate the percentage rate increase using as the state share of the increase the amount available under section 256B.199, paragraph (d). The commissioner shall settle up payments to qualifying hospitals based on actual payments under that section and actual hospital admissions.

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

Sec. 15. Minnesota Statutes 2008, section 256.969, is amended by adding a subdivision to read:

Subd. 29. **Reimbursement for the fee increase for the early hearing detection and intervention program.** For services provided on or after July 1, 2010, in addition to any other payment under this section, the commissioner shall reimburse hospitals for the increase in the fee for the early hearing detection and intervention program described in section 144.125, subdivision 1, paid by the hospital for public program recipients.

Sec. 16. **[256B.032] ELIGIBLE VENDORS OF MEDICAL CARE.**

(a) Effective January 1, 2011, the commissioner shall establish performance thresholds for health care providers included in the provider peer grouping system developed by the commissioner of health under section 62U.04. The thresholds shall be set at the 10th percentile of the combined cost and quality measure used for provider peer grouping, and separate thresholds shall be set for hospital and physician services.

(b) Beginning January 1, 2012, any health care provider with a combined cost and quality score below the threshold set in paragraph (a) shall be prohibited from enrolling as a vendor of medical care in the medical assistance, general assistance medical care, or MinnesotaCare programs, and shall not be eligible for direct payments under those programs or for payments made by managed care plans under their contracts with the commissioner under section 256B.69 or 256L.12. A health care provider that is prohibited from enrolling as a vendor or receiving payments under this paragraph may reenroll effective January 1 of any subsequent year if the provider's most recent combined cost and quality score exceeds the threshold established in paragraph (a).

(c) Notwithstanding paragraph (b), a provider may continue to participate as a vendor or as part of a managed care plan provider network if the commissioner determines that a contract with the provider is necessary to ensure adequate access to health care services.

(d) By January 15, 2013, the commissioner shall report to the legislature on the impact of this section. The commissioner's report shall include information on:

(1) the providers falling below the thresholds as of January 1, 2012;

(2) the volume of services and cost of care provided to enrollees in the medical assistance, general assistance medical care, or MinnesotaCare programs in the 12 months prior to January 1, 2012, by providers falling below the thresholds;

(3) providers who fell below the thresholds but continued to be eligible vendors under paragraph (c);

(4) the estimated cost savings achieved by not contracting with providers who do not meet the performance thresholds; and

(5) recommendations for increasing the threshold levels of performance over time.

Sec. 17. Minnesota Statutes 2008, section 256B.056, subdivision 3c, is amended to read:

**Subd. 3c. Asset limitations for families and children.** A household of two or more persons must not own more than \$20,000 in total net assets, and a household of one person must not own more than \$10,000 in total net assets. In addition to these maximum amounts, an eligible individual or family may accrue interest on these amounts, but they must be reduced to the maximum at the time

of an eligibility redetermination. The value of assets that are not considered in determining eligibility for medical assistance for families and children is the value of those assets excluded under the AFDC state plan as of July 16, 1996, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104-193, with the following exceptions:

- (1) household goods and personal effects are not considered;
- (2) capital and operating assets of a trade or business up to \$200,000 are not considered, except that a bank account that contains personal income or assets, or is used to pay personal expenses, is not considered a capital or operating asset of a trade or business;
- (3) one motor vehicle is excluded for each person of legal driving age who is employed or seeking employment;
- (4) one burial plot and all other burial expenses equal to the supplemental security income program asset limit are not considered for each individual;
- (5) court-ordered settlements up to \$10,000 are not considered;
- (6) individual retirement accounts and funds are not considered; and
- (7) assets owned by children are not considered.

The assets specified in clause (2) must be disclosed to the local agency at the time of application and at the time of an eligibility redetermination, and must be verified upon request of the local agency.

**EFFECTIVE DATE.** This section is effective January 1, 2011, or upon federal approval, whichever is later.

Sec. 18. Minnesota Statutes 2008, section 256B.056, subdivision 3d, is amended to read:

Subd. 3d. **Reduction of excess assets.** Assets in excess of the limits in subdivisions 3 to 3c may be reduced to allowable limits as follows:

(a) Assets may be reduced in any of the three calendar months before the month of application in which the applicant seeks coverage by:

~~(1) designating burial funds up to \$1,500 for each applicant, spouse, and MA-eligible dependent child; and~~

~~(2) paying health service bills for health services that are incurred in the retroactive period for which the applicant seeks eligibility, starting with the oldest bill. After assets are reduced to allowable limits, eligibility begins with the next dollar of MA-covered health services incurred in the retroactive period. Applicants reducing assets under this subdivision who also have excess income shall first spend excess assets to pay health service bills and may meet the income spenddown on remaining bills.~~

(b) Assets may be reduced beginning the month of application by:

~~(1) paying bills for health services that are incurred during the period specified in Minnesota Rules, part 9505.0090, subpart 2, that would otherwise be paid by medical assistance; and. After assets are reduced to allowable limits, eligibility begins with the next dollar of medical assistance covered health services incurred in the period. Applicants reducing assets under this subdivision~~

who also have excess income shall first spend excess assets to pay health service bills and may meet the income spenddown on remaining bills.

~~(2) using any means other than a transfer of assets for less than fair market value as defined in section 256B.0595, subdivision 1, paragraph (b).~~

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

Sec. 19. Minnesota Statutes 2008, section 256B.057, is amended by adding a subdivision to read:

Subd. 11. **Treatment for colorectal cancer.** (a) Medical assistance shall be paid for an individual who:

(1) has been screened for colorectal cancer by the colorectal cancer prevention demonstration project;

(2) according to the individual's treating health professional, needs treatment for colorectal cancer;

(3) meets income eligibility guidelines for the colorectal cancer prevention demonstration project;

(4) is under the age of 65; and

(5) is not otherwise eligible for medical assistance or covered under creditable coverage as defined under United States Code, title 42, section 300gg(a).

(b) Medical assistance provided under this subdivision shall be limited to services provided during the period that the individual receives treatment for colorectal cancer.

(c) An individual meeting the criteria in paragraph (a) is eligible for medical assistance without meeting the eligibility criteria relating to income and assets in section 256B.056, subdivisions 1a to 5b.

(d) This subdivision expires December 31, 2010.

Sec. 20. Minnesota Statutes 2008, section 256B.0575, is amended to read:

**256B.0575 AVAILABILITY OF INCOME FOR INSTITUTIONALIZED PERSONS.**

Subdivision 1. **Income deductions.** When an institutionalized person is determined eligible for medical assistance, the income that exceeds the deductions in paragraphs (a) and (b) must be applied to the cost of institutional care.

(a) The following amounts must be deducted from the institutionalized person's income in the following order:

(1) the personal needs allowance under section 256B.35 or, for a veteran who does not have a spouse or child, or a surviving spouse of a veteran having no child, the amount of an improved pension received from the veteran's administration not exceeding \$90 per month;

(2) the personal allowance for disabled individuals under section 256B.36;

(3) if the institutionalized person has a legally appointed guardian or conservator, five

percent of the recipient's gross monthly income up to \$100 as reimbursement for guardianship or conservatorship services;

(4) a monthly income allowance determined under section 256B.058, subdivision 2, but only to the extent income of the institutionalized spouse is made available to the community spouse;

(5) a monthly allowance for children under age 18 which, together with the net income of the children, would provide income equal to the medical assistance standard for families and children according to section 256B.056, subdivision 4, for a family size that includes only the minor children. This deduction applies only if the children do not live with the community spouse and only to the extent that the deduction is not included in the personal needs allowance under section 256B.35, subdivision 1, as child support garnished under a court order;

(6) a monthly family allowance for other family members, equal to one-third of the difference between 122 percent of the federal poverty guidelines and the monthly income for that family member;

(7) reparations payments made by the Federal Republic of Germany and reparations payments made by the Netherlands for victims of Nazi persecution between 1940 and 1945;

(8) all other exclusions from income for institutionalized persons as mandated by federal law; and

(9) amounts for reasonable expenses, as specified in subdivision 2, incurred for necessary medical or remedial care for the institutionalized person that are recognized under state law, not medical assistance covered expenses, and ~~that are~~ not subject to payment by a third party.

~~Reasonable expenses are limited to expenses that have not been previously used as a deduction from income and are incurred during the enrollee's current period of eligibility, including retroactive months associated with the current period of eligibility, for medical assistance payment of long-term care services.~~

For purposes of clause (6), "other family member" means a person who resides with the community spouse and who is a minor or dependent child, dependent parent, or dependent sibling of either spouse. "Dependent" means a person who could be claimed as a dependent for federal income tax purposes under the Internal Revenue Code.

(b) Income shall be allocated to an institutionalized person for a period of up to three calendar months, in an amount equal to the medical assistance standard for a family size of one if:

(1) a physician certifies that the person is expected to reside in the long-term care facility for three calendar months or less;

(2) if the person has expenses of maintaining a residence in the community; and

(3) if one of the following circumstances apply:

(i) the person was not living together with a spouse or a family member as defined in paragraph (a) when the person entered a long-term care facility; or

(ii) the person and the person's spouse become institutionalized on the same date, in which case the allocation shall be applied to the income of one of the spouses.

For purposes of this paragraph, a person is determined to be residing in a licensed nursing home, regional treatment center, or medical institution if the person is expected to remain for a period of one full calendar month or more.

Subd. 2. **Reasonable expenses.** For the purposes of subdivision 1, paragraph (a), clause (9), reasonable expenses are limited to expenses that have not been previously used as a deduction from income and were not:

(1) for long-term care expenses incurred during a period of ineligibility as defined in section 256B.0595, subdivision 2;

(2) incurred more than three months before the month of application associated with the current period of eligibility;

(3) for expenses incurred by a recipient that are duplicative of services that are covered under chapter 256B; or

(4) nursing facility expenses incurred without a timely assessment as required under section 256B.0911.

Sec. 21. Minnesota Statutes 2008, section 256B.0595, subdivision 1, is amended to read:

Subdivision 1. **Prohibited transfers.** (a) For transfers of assets made on or before August 10, 1993, if an institutionalized person or the institutionalized person's spouse has given away, sold, or disposed of, for less than fair market value, any asset or interest therein, except assets other than the homestead that are excluded under the supplemental security program, within 30 months before or any time after the date of institutionalization if the person has been determined eligible for medical assistance, or within 30 months before or any time after the date of the first approved application for medical assistance if the person has not yet been determined eligible for medical assistance, the person is ineligible for long-term care services for the period of time determined under subdivision 2.

(b) Effective for transfers made after August 10, 1993, an institutionalized person, an institutionalized person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the institutionalized person or institutionalized person's spouse, may not give away, sell, or dispose of, for less than fair market value, any asset or interest therein, except assets other than the homestead that are excluded under the Supplemental Security Income program, for the purpose of establishing or maintaining medical assistance eligibility. This applies to all transfers, including those made by a community spouse after the month in which the institutionalized spouse is determined eligible for medical assistance. For purposes of determining eligibility for long-term care services, any transfer of such assets within 36 months before or any time after an institutionalized person requests medical assistance payment of long-term care services, or 36 months before or any time after a medical assistance recipient becomes an institutionalized person, for less than fair market value may be considered. Any such transfer is presumed to have been made for the purpose of establishing or maintaining medical assistance eligibility and the institutionalized person is ineligible for long-term care services for the period of time determined under subdivision 2, unless the institutionalized person furnishes convincing evidence to establish that the transaction was exclusively for another purpose, or unless the transfer is permitted under subdivision 3 or 4. In the case of payments from a trust or portions of a trust that are considered transfers of assets under federal law, or in the case of

any other disposal of assets made on or after February 8, 2006, any transfers made within 60 months before or any time after an institutionalized person requests medical assistance payment of long-term care services and within 60 months before or any time after a medical assistance recipient becomes an institutionalized person, may be considered.

(c) This section applies to transfers, for less than fair market value, of income or assets, including assets that are considered income in the month received, such as inheritances, court settlements, and retroactive benefit payments or income to which the institutionalized person or the institutionalized person's spouse is entitled but does not receive due to action by the institutionalized person, the institutionalized person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the institutionalized person or the institutionalized person's spouse.

(d) This section applies to payments for care or personal services provided by a relative, unless the compensation was stipulated in a notarized, written agreement which was in existence when the service was performed, the care or services directly benefited the person, and the payments made represented reasonable compensation for the care or services provided. A notarized written agreement is not required if payment for the services was made within 60 days after the service was provided.

(e) This section applies to the portion of any asset or interest that an institutionalized person, an institutionalized person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the institutionalized person or the institutionalized person's spouse, transfers to any annuity that exceeds the value of the benefit likely to be returned to the institutionalized person or institutionalized person's spouse while alive, based on estimated life expectancy as determined according to the current actuarial tables published by the Office of the Chief Actuary of the Social Security Administration. The commissioner may adopt rules reducing life expectancies based on the need for long-term care. This section applies to an annuity purchased on or after March 1, 2002, that:

(1) is not purchased from an insurance company or financial institution that is subject to licensing or regulation by the Minnesota Department of Commerce or a similar regulatory agency of another state;

(2) does not pay out principal and interest in equal monthly installments; or

(3) does not begin payment at the earliest possible date after annuitization.

(f) Effective for transactions, including the purchase of an annuity, occurring on or after February 8, 2006, by or on behalf of an institutionalized person who has applied for or is receiving long-term care services or the institutionalized person's spouse shall be treated as the disposal of an asset for less than fair market value unless the department is named a preferred remainder beneficiary as described in section 256B.056, subdivision 11. Any subsequent change to the designation of the department as a preferred remainder beneficiary shall result in the annuity being treated as a disposal of assets for less than fair market value. The amount of such transfer shall be the maximum amount the institutionalized person or the institutionalized person's spouse could receive from the annuity or similar financial instrument. Any change in the amount of the income or principal being withdrawn from the annuity or other similar financial instrument at the time of the most recent disclosure shall be deemed to be a transfer of assets for less than fair market value unless the institutionalized person or the institutionalized person's spouse demonstrates that the transaction was for fair market value. In



the event a distribution of income or principal has been improperly distributed or disbursed from an annuity or other retirement planning instrument of an institutionalized person or the institutionalized person's spouse, a cause of action exists against the individual receiving the improper distribution for the cost of medical assistance services provided or the amount of the improper distribution, whichever is less.

(g) Effective for transactions, including the purchase of an annuity, occurring on or after February 8, 2006, by or on behalf of an institutionalized person applying for or receiving long-term care services shall be treated as a disposal of assets for less than fair market value unless it is:

(i) an annuity described in subsection (b) or (q) of section 408 of the Internal Revenue Code of 1986; or

(ii) purchased with proceeds from:

(A) an account or trust described in subsection (a), (c), or (p) of section 408 of the Internal Revenue Code;

(B) a simplified employee pension within the meaning of section 408(k) of the Internal Revenue Code; or

(C) a Roth IRA described in section 408A of the Internal Revenue Code; or

(iii) an annuity that is irrevocable and nonassignable; is actuarially sound as determined in accordance with actuarial publications of the Office of the Chief Actuary of the Social Security Administration; and provides for payments in equal amounts during the term of the annuity, with no deferral and no balloon payments made.

(h) For purposes of this section, long-term care services include services in a nursing facility, services that are eligible for payment according to section 256B.0625, subdivision 2, because they are provided in a swing bed, intermediate care facility for persons with developmental disabilities, and home and community-based services provided pursuant to sections 256B.0915, 256B.092, and 256B.49. For purposes of this subdivision and subdivisions 2, 3, and 4, "institutionalized person" includes a person who is an inpatient in a nursing facility or in a swing bed, or intermediate care facility for persons with developmental disabilities or who is receiving home and community-based services under sections 256B.0915, 256B.092, and 256B.49.

(i) This section applies to funds used to purchase a promissory note, loan, or mortgage unless the note, loan, or mortgage:

(1) has a repayment term that is actuarially sound;

(2) provides for payments to be made in equal amounts during the term of the loan, with no deferral and no balloon payments made; and

(3) prohibits the cancellation of the balance upon the death of the lender.

In the case of a promissory note, loan, or mortgage that does not meet an exception in clauses (1) to (3), the value of such note, loan, or mortgage shall be the outstanding balance due as of the date of the institutionalized person's request for medical assistance payment of long-term care services.

(j) This section applies to the purchase of a life estate interest in another person's home unless

the purchaser resides in the home for a period of at least one year after the date of purchase.

(k) This section applies to transfers into a pooled trust that qualifies under United States Code, title 42, section 1396p(d)(4)(C), by:

(1) a person age 65 or older or the person's spouse; or

(2) any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of a person age 65 or older or the person's spouse.

Sec. 22. Minnesota Statutes 2008, section 256B.0595, subdivision 2, is amended to read:

**Subd. 2. Period of ineligibility for long-term care services.** (a) For any uncompensated transfer occurring on or before August 10, 1993, the number of months of ineligibility for long-term care services shall be the lesser of 30 months, or the uncompensated transfer amount divided by the average medical assistance rate for nursing facility services in the state in effect on the date of application. The amount used to calculate the average medical assistance payment rate shall be adjusted each July 1 to reflect payment rates for the previous calendar year. The period of ineligibility begins with the month in which the assets were transferred. If the transfer was not reported to the local agency at the time of application, and the applicant received long-term care services during what would have been the period of ineligibility if the transfer had been reported, a cause of action exists against the transferee for the cost of long-term care services provided during the period of ineligibility, or for the uncompensated amount of the transfer, whichever is less. The uncompensated transfer amount is the fair market value of the asset at the time it was given away, sold, or disposed of, less the amount of compensation received.

(b) For uncompensated transfers made after August 10, 1993, the number of months of ineligibility for long-term care services shall be the total uncompensated value of the resources transferred divided by the average medical assistance rate for nursing facility services in the state in effect on the date of application. The amount used to calculate the average medical assistance payment rate shall be adjusted each July 1 to reflect payment rates for the previous calendar year. The period of ineligibility begins with the first day of the month after the month in which the assets were transferred except that if one or more uncompensated transfers are made during a period of ineligibility, the total assets transferred during the ineligibility period shall be combined and a penalty period calculated to begin on the first day of the month after the month in which the first uncompensated transfer was made. If the transfer was reported to the local agency after the date that advance notice of a period of ineligibility that affects the next month could be provided to the recipient and the recipient received medical assistance services or the transfer was not reported to the local agency, and the applicant or recipient received medical assistance services during what would have been the period of ineligibility if the transfer had been reported, a cause of action exists against the transferee for that portion of long-term care services provided during the period of ineligibility, or for the uncompensated amount of the transfer, whichever is less. The uncompensated transfer amount is the fair market value of the asset at the time it was given away, sold, or disposed of, less the amount of compensation received. Effective for transfers made on or after March 1, 1996, involving persons who apply for medical assistance on or after April 13, 1996, no cause of action exists for a transfer unless:

(1) the transferee knew or should have known that the transfer was being made by a person who was a resident of a long-term care facility or was receiving that level of care in the community at the time of the transfer;

(2) the transferee knew or should have known that the transfer was being made to assist the person to qualify for or retain medical assistance eligibility; or

(3) the transferee actively solicited the transfer with intent to assist the person to qualify for or retain eligibility for medical assistance.

(c) For uncompensated transfers made on or after February 8, 2006, the period of ineligibility:

(1) for uncompensated transfers by or on behalf of individuals receiving medical assistance payment of long-term care services, begins the first day of the month following advance notice of the ~~penalty~~ period of ineligibility, but no later than the first day of the month that follows three full calendar months from the date of the report or discovery of the transfer; or

(2) for uncompensated transfers by individuals requesting medical assistance payment of long-term care services, begins the date on which the individual is eligible for medical assistance under the Medicaid state plan and would otherwise be receiving long-term care services based on an approved application for such care but for the ~~application of the penalty period of ineligibility resulting from the uncompensated transfer~~; and

(3) cannot begin during any other period of ineligibility.

(d) If a calculation of a ~~penalty~~ period of ineligibility results in a partial month, payments for long-term care services shall be reduced in an amount equal to the fraction.

(e) In the case of multiple fractional transfers of assets in more than one month for less than fair market value on or after February 8, 2006, the period of ineligibility is calculated by treating the total, cumulative, uncompensated value of all assets transferred during all months on or after February 8, 2006, as one transfer.

(f) A period of ineligibility established under paragraph (c) may be eliminated if all of the assets transferred for less than fair market value used to calculate the period of ineligibility, or cash equal to the value of the assets at the time of the transfer, are returned within 12 months after the date the period of ineligibility began. A period of ineligibility must not be adjusted if less than the full amount of the transferred assets or the full cash value of the transferred assets are returned.

**EFFECTIVE DATE.** This section is effective for periods of ineligibility established on or after January 1, 2011.

Sec. 23. Minnesota Statutes 2008, section 256B.06, subdivision 4, is amended to read:

Subd. 4. **Citizenship requirements.** (a) Eligibility for medical assistance is limited to citizens of the United States, qualified noncitizens as defined in this subdivision, and other persons residing lawfully in the United States. Citizens or nationals of the United States must cooperate in obtaining satisfactory documentary evidence of citizenship or nationality according to the requirements of the federal Deficit Reduction Act of 2005, Public Law 109-171.

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

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

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

- (3) granted asylum according to United States Code, title 8, section 1158;
- (4) granted withholding of deportation according to United States Code, title 8, section 1253(h);
- (5) paroled for a period of at least one year according to United States Code, title 8, section 1182(d)(5);
- (6) granted conditional entrant status according to United States Code, title 8, section 1153(a)(7);
- (7) determined to be a battered noncitizen by the United States Attorney General according to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, title V of the Omnibus Consolidated Appropriations Bill, Public Law 104-200;
- (8) is a child of a noncitizen determined to be a battered noncitizen by the United States Attorney General according to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, title V, of the Omnibus Consolidated Appropriations Bill, Public Law 104-200; or
- (9) determined to be a Cuban or Haitian entrant as defined in section 501(e) of Public Law 96-422, the Refugee Education Assistance Act of 1980.

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

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

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

- (i) refugees admitted to the United States according to United States Code, title 8, section 1157;
- (ii) persons granted asylum according to United States Code, title 8, section 1158;
- (iii) persons granted withholding of deportation according to United States Code, title 8, section 1253(h);
- (iv) veterans of the United States armed forces with an honorable discharge for a reason other than noncitizen status, their spouses and unmarried minor dependent children; or
- (v) persons on active duty in the United States armed forces, other than for training, their spouses and unmarried minor dependent children.

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

Notwithstanding paragraph (j), beginning July 1, 2010, children and pregnant women who are qualified noncitizens, as described in paragraph (b), are eligible for medical assistance with federal financial participation as provided by the federal Children's Health Insurance Program Reauthorization Act of 2009, Public Law 111-3.

(e) Noncitizens who are not qualified noncitizens as defined in paragraph (b), who are lawfully present in the United States, as defined in Code of Federal Regulations, title 8, section 103.12, and who otherwise meet the eligibility requirements of this chapter, are eligible for medical assistance under clauses (1) to (3). These individuals must cooperate with the United States Citizenship and Immigration Services to pursue any applicable immigration status, including citizenship, that would qualify them for medical assistance with federal financial participation.

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

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

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

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

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

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

(i) Beginning July 1, 2009, pregnant noncitizens who are undocumented, nonimmigrants, or ~~eligible for medical assistance as described in paragraph (j), lawfully present as designated in paragraph (e)~~ and who are not covered by a group health plan or health insurance coverage according to Code of Federal Regulations, title 42, section 457.310, and who otherwise meet the eligibility requirements of this chapter, are eligible for medical assistance through the period of pregnancy, including labor and delivery, and 60 days postpartum, to the extent federal funds are available under title XXI of the Social Security Act, and the state children's health insurance program, followed by 60 days postpartum without federal financial participation.

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

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

in prepaid medical assistance.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 24. Minnesota Statutes 2008, section 256B.06, subdivision 5, is amended to read:

Subd. 5. **Deeming of sponsor income and resources.** When determining eligibility for any federal or state funded medical assistance under this section, the income and resources of all noncitizens shall be deemed to include their sponsors' income and resources as required under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, title IV, Public Law 104-193, sections 421 and 422, and subsequently set out in federal rules. This section is effective May 1, 1997. Beginning July 1, 2010, sponsor deeming does not apply to pregnant women and children who are qualified noncitizens, as described in section 256B.06, subdivision 4, paragraph (b).

**EFFECTIVE DATE.** This section is effective July 1, 2010.

Sec. 25. Minnesota Statutes 2008, section 256B.0625, subdivision 3, is amended to read:

Subd. 3. **Physicians' services.** (a) Medical assistance covers physicians' services.

(b) Rates paid for anesthesiology services provided by physicians shall be according to the formula utilized in the Medicare program and shall use a conversion factor "at percentile of calendar year set by legislature," except that rates paid to physicians for the medical direction of a certified registered nurse anesthetist shall be the same as the rate paid to the certified registered nurse anesthetist under medical direction.

Sec. 26. Minnesota Statutes 2008, section 256B.0625, subdivision 3c, is amended to read:

Subd. 3c. **Health Services Policy Committee.** (a) The commissioner, after receiving recommendations from professional physician associations, professional associations representing licensed nonphysician health care professionals, and consumer groups, shall establish a 13-member Health Services Policy Committee, which consists of 12 voting members and one nonvoting member. The Health Services Policy Committee shall advise the commissioner regarding health services pertaining to the administration of health care benefits covered under the medical assistance, general assistance medical care, and MinnesotaCare programs. The Health Services Policy Committee shall meet at least quarterly. The Health Services Policy Committee shall annually elect a physician chair from among its members, who shall work directly with the commissioner's medical director, to establish the agenda for each meeting. The Health Services Policy Committee shall also recommend criteria for verifying centers of excellence for specific aspects of medical care where a specific set of combined services, a volume of patients necessary to maintain a high level of competency, or a specific level of technical capacity is associated with improved health outcomes.

(b) The commissioner shall establish a dental subcommittee to operate under the Health Services Policy Committee. The dental subcommittee consists of general dentists, dental specialists, safety net providers, dental hygienists, health plan company and county and public health representatives, health researchers, consumers, and a designee of the commissioner of health. The dental subcommittee shall advise the commissioner regarding:

(1) the critical access dental program under section 256B.76, subdivision 4, including but not

limited to criteria for designating and terminating critical access dental providers;

(2) any changes to the critical access dental provider program necessary to comply with program expenditure limits;

(3) dental coverage policy based on evidence, quality, continuity of care, and best practices;

(4) the development of dental delivery models; and

(5) dental services to be added or eliminated from subdivision 9, paragraph (b).

(c) The Health Services Policy Committee shall study approaches to making provider reimbursement under the medical assistance, MinnesotaCare, and general assistance medical care programs contingent on patient participation in a patient-centered decision-making process, and shall evaluate the impact of these approaches on health care quality, patient satisfaction, and health care costs. The committee shall present findings and recommendations to the commissioner and the legislative committees with jurisdiction over health care by January 15, 2010.

(d) The Health Services Policy Committee shall monitor and track the practice patterns of physicians providing services to medical assistance, MinnesotaCare, and general assistance medical care enrollees under fee-for-service, managed care, and county-based purchasing. The committee shall focus on services or specialties for which there is a high variation in utilization across physicians, or which are associated with high medical costs. The commissioner, based upon the findings of the committee, shall regularly notify physicians whose practice patterns indicate higher than average utilization or costs. Managed care and county-based purchasing plans shall provide the committee with utilization and cost data necessary to implement this paragraph.

(e) The Health Services Policy Committee shall review caesarean section rates for the fee-for-service medical assistance population. The committee may develop best practices policies related to the minimization of caesarean sections, including but not limited to standards and guidelines for health care providers and health care facilities.

Sec. 27. Minnesota Statutes 2008, section 256B.0625, subdivision 9, is amended to read:

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

(b) Medical assistance dental coverage for nonpregnant adults is limited to the following services:

(1) comprehensive exams, limited to once every five years;

(2) periodic exams, limited to one per year;

(3) limited exams;

(4) bitewing x-rays, limited to one per year;

(5) periapical x-rays;

(6) panoramic x-rays, limited to one every five years, and only if provided in conjunction with a posterior extraction or scheduled outpatient facility procedure, or as medically necessary for

the diagnosis and follow-up of oral and maxillofacial pathology and trauma. Panoramic x-rays may be taken once every two years for patients who cannot cooperate for intraoral film due to a developmental disability or medical condition that does not allow for intraoral film placement;

- (7) prophylaxis, limited to one per year;
- (8) application of fluoride varnish, limited to one per year;
- (9) posterior fillings, all at the amalgam rate;
- (10) anterior fillings;
- (11) endodontics, limited to root canals on the anterior and premolars only;
- (12) removable prostheses, each dental arch limited to one every six years;
- (13) oral surgery, limited to extractions, biopsies, and incision and drainage of abscesses;
- (14) palliative treatment and sedative fillings for relief of pain; and
- (15) full-mouth debridement, limited to one every five years.

(c) In addition to the services specified in paragraph (b), medical assistance covers the following services for adults, if provided in an outpatient hospital setting or freestanding ambulatory surgical center as part of outpatient dental surgery:

- (1) periodontics, limited to periodontal scaling and root planing once every two years;
- (2) general anesthesia; and
- (3) full-mouth survey once every five years.

(d) Medical assistance covers dental services for children that are medically necessary. The following guidelines apply:

- (1) posterior fillings are paid at the amalgam rate;
- (2) application of sealants once every five years per permanent molar; and
- (3) application of fluoride varnish once every six months.

**EFFECTIVE DATE.** This section is effective January 1, 2010.

Sec. 28. Minnesota Statutes 2008, section 256B.0625, subdivision 11, is amended to read:

Subd. 11. **Nurse anesthetist services.** Medical assistance covers nurse anesthetist services. Rates paid for anesthesiology services provided by a certified registered nurse anesthetists anesthetist under the direction of a physician shall be according to the formula utilized in the Medicare program and shall use the conversion factor that is used by the Medicare program. Rates paid for anesthesiology services provided by a certified registered nurse anesthetist who is not directed by a physician shall be the same rate as paid under subdivision 3, paragraph (b).

Sec. 29. Minnesota Statutes 2008, section 256B.0625, subdivision 13, is amended to read:

Subd. 13. **Drugs.** (a) Medical assistance covers drugs, except for fertility drugs when



specifically used to enhance fertility, if prescribed by a licensed practitioner and dispensed by a licensed pharmacist, by a physician enrolled in the medical assistance program as a dispensing physician, or by a physician, physician assistant, or a nurse practitioner employed by or under contract with a community health board as defined in section 145A.02, subdivision 5, for the purposes of communicable disease control.

(b) The dispensed quantity of a prescription drug must not exceed a 34-day supply, unless authorized by the commissioner.

(c) Medical assistance covers the following over-the-counter drugs when prescribed by a licensed practitioner or by a licensed pharmacist who meets standards established by the commissioner, in consultation with the board of pharmacy: antacids, acetaminophen, family planning products, aspirin, insulin, products for the treatment of lice, vitamins for adults with documented vitamin deficiencies, vitamins for children under the age of seven and pregnant or nursing women, and any other over-the-counter drug identified by the commissioner, in consultation with the formulary committee, as necessary, appropriate, and cost-effective for the treatment of certain specified chronic diseases, conditions, or disorders, and this determination shall not be subject to the requirements of chapter 14. A pharmacist may prescribe over-the-counter medications as provided under this paragraph for purposes of receiving reimbursement under Medicaid. When prescribing over-the-counter drugs under this paragraph, licensed pharmacists must consult with the recipient to determine necessity, provide drug counseling, review drug therapy for potential adverse interactions, and make referrals as needed to other health care professionals.

(d) Effective January 1, 2006, medical assistance shall not cover drugs that are coverable under Medicare Part D as defined in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Public Law 108-173, section 1860D-2(e), for individuals eligible for drug coverage as defined in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Public Law 108-173, section 1860D-1(a)(3)(A). For these individuals, medical assistance may cover drugs from the drug classes listed in United States Code, title 42, section 1396r-8(d)(2), subject to this subdivision and subdivisions 13a to 13g, except that drugs listed in United States Code, title 42, section 1396r-8(d)(2)(E), shall not be covered.

Sec. 30. Minnesota Statutes 2008, section 256B.0625, subdivision 13e, is amended to read:

Subd. 13e. **Payment rates.** (a) The basis for determining the amount of payment shall be the lower of the actual acquisition costs of the drugs plus a fixed dispensing fee; the maximum allowable cost set by the federal government or by the commissioner plus the fixed dispensing fee; or the usual and customary price charged to the public. The amount of payment basis must be reduced to reflect all discount amounts applied to the charge by any provider/insurer agreement or contract for submitted charges to medical assistance programs. The net submitted charge may not be greater than the patient liability for the service. The pharmacy dispensing fee shall be \$3.65, except that the dispensing fee for intravenous solutions which must be compounded by the pharmacist shall be \$8 per bag, \$14 per bag for cancer chemotherapy products, and \$30 per bag for total parenteral nutritional products dispensed in one liter quantities, or \$44 per bag for total parenteral nutritional products dispensed in quantities greater than one liter. Actual acquisition cost includes quantity and other special discounts except time and cash discounts. Effective July 1, ~~2008~~ 2009, the actual acquisition cost of a drug shall be estimated by the commissioner, at average wholesale price minus ~~14~~ 15 percent. The actual acquisition cost of antihemophilic factor drugs shall be estimated at the average wholesale price minus 30 percent. The maximum allowable cost of a multisource drug

may be set by the commissioner and it shall be comparable to, but no higher than, the maximum amount paid by other third-party payors in this state who have maximum allowable cost programs. Establishment of the amount of payment for drugs shall not be subject to the requirements of the Administrative Procedure Act.

(b) An additional dispensing fee of \$.30 may be added to the dispensing fee paid to pharmacists for legend drug prescriptions dispensed to residents of long-term care facilities when a unit dose blister card system, approved by the department, is used. Under this type of dispensing system, the pharmacist must dispense a 30-day supply of drug. The National Drug Code (NDC) from the drug container used to fill the blister card must be identified on the claim to the department. The unit dose blister card containing the drug must meet the packaging standards set forth in Minnesota Rules, part 6800.2700, that govern the return of unused drugs to the pharmacy for reuse. The pharmacy provider will be required to credit the department for the actual acquisition cost of all unused drugs that are eligible for reuse. Over-the-counter medications must be dispensed in the manufacturer's unopened package. The commissioner may permit the drug clozapine to be dispensed in a quantity that is less than a 30-day supply.

(c) Whenever a generically equivalent product is available, payment shall be on the basis of the actual acquisition cost of the generic drug, or on the maximum allowable cost established by the commissioner.

(d) The basis for determining the amount of payment for drugs administered in an outpatient setting shall be the lower of the usual and customary cost submitted by the provider or the amount established for Medicare by the United States Department of Health and Human Services pursuant to title XVIII, section 1847a of the federal Social Security Act.

(e) The commissioner may negotiate lower reimbursement rates for specialty pharmacy products than the rates specified in paragraph (a). The commissioner may require individuals enrolled in the health care programs administered by the department to obtain specialty pharmacy products from providers with whom the commissioner has negotiated lower reimbursement rates. Specialty pharmacy products are defined as those used by a small number of recipients or recipients with complex and chronic diseases that require expensive and challenging drug regimens. Examples of these conditions include, but are not limited to: multiple sclerosis, HIV/AIDS, transplantation, hepatitis C, growth hormone deficiency, Crohn's Disease, rheumatoid arthritis, and certain forms of cancer. Specialty pharmaceutical products include injectable and infusion therapies, biotechnology drugs, high-cost therapies, and therapies that require complex care. The commissioner shall consult with the formulary committee to develop a list of specialty pharmacy products subject to this paragraph. In consulting with the formulary committee in developing this list, the commissioner shall take into consideration the population served by specialty pharmacy products, the current delivery system and standard of care in the state, and access to care issues. The commissioner shall have the discretion to adjust the reimbursement rate to prevent access to care issues.

Sec. 31. Minnesota Statutes 2008, section 256B.0625, subdivision 13h, is amended to read:

Subd. 13h. **Medication therapy management services.** (a) Medical assistance and general assistance medical care cover medication therapy management services for a recipient taking four or more prescriptions to treat or prevent two or more chronic medical conditions, or a recipient with a drug therapy problem that is identified or prior authorized by the commissioner that has resulted or is likely to result in significant nondrug program costs. The commissioner may cover

medical therapy management services under MinnesotaCare if the commissioner determines this is cost-effective. For purposes of this subdivision, "medication therapy management" means the provision of the following pharmaceutical care services by a licensed pharmacist to optimize the therapeutic outcomes of the patient's medications:

- (1) performing or obtaining necessary assessments of the patient's health status;
- (2) formulating a medication treatment plan;
- (3) monitoring and evaluating the patient's response to therapy, including safety and effectiveness;
- (4) performing a comprehensive medication review to identify, resolve, and prevent medication-related problems, including adverse drug events;
- (5) documenting the care delivered and communicating essential information to the patient's other primary care providers;
- (6) providing verbal education and training designed to enhance patient understanding and appropriate use of the patient's medications;
- (7) providing information, support services, and resources designed to enhance patient adherence with the patient's therapeutic regimens; and
- (8) coordinating and integrating medication therapy management services within the broader health care management services being provided to the patient.

Nothing in this subdivision shall be construed to expand or modify the scope of practice of the pharmacist as defined in section 151.01, subdivision 27.

(b) To be eligible for reimbursement for services under this subdivision, a pharmacist must meet the following requirements:

- (1) have a valid license issued under chapter 151;
- (2) have graduated from an accredited college of pharmacy on or after May 1996, or completed a structured and comprehensive education program approved by the Board of Pharmacy and the American Council of Pharmaceutical Education for the provision and documentation of pharmaceutical care management services that has both clinical and didactic elements;
- (3) be practicing in an ambulatory care setting as part of a multidisciplinary team or have developed a structured patient care process that is offered in a private or semiprivate patient care area that is separate from the commercial business that also occurs in the setting, or in home settings, excluding long-term care and group homes, if the service is ordered by the provider-directed care coordination team; and
- (4) make use of an electronic patient record system that meets state standards.

(c) For purposes of reimbursement for medication therapy management services, the commissioner may enroll individual pharmacists as medical assistance and general assistance medical care providers. The commissioner may also establish contact requirements between the pharmacist and recipient, including limiting the number of reimbursable consultations per recipient.

~~(d) The commissioner, after receiving recommendations from professional medical associations, professional pharmacy associations, and consumer groups, shall convene an 11-member Medication Therapy Management Advisory Committee to advise the commissioner on the implementation and administration of medication therapy management services. The committee shall be comprised of: two licensed physicians; two licensed pharmacists; two consumer representatives; two health plan company representatives; and three members with expertise in the area of medication therapy management, who may be licensed physicians or licensed pharmacists. The committee is governed by section 15.059, except that committee members do not receive compensation or reimbursement for expenses. The advisory committee expires on June 30, 2007.~~

~~(e) The commissioner shall evaluate the effect of medication therapy management on quality of care, patient outcomes, and program costs, and shall include a description of any savings generated in the medical assistance and general assistance medical care programs that can be attributable to this coverage. The evaluation shall be submitted to the legislature by December 15, 2007. The commissioner may contract with a vendor or an academic institution that has expertise in evaluating health care outcomes for the purpose of completing the evaluation.~~

(d) The commissioner shall establish a pilot project for an intensive medication therapy management program for patients identified by the commissioner with multiple chronic conditions and a high number of medications who are at high risk of preventable hospitalizations, emergency room use, medication complications, and suboptimal treatment outcomes due to medication-related problems. For purposes of the pilot project, medication therapy management services may be provided in a patient's home or community setting, in addition to other authorized settings. The commissioner may waive existing payment policies and establish special payment rates for the pilot project. The pilot project must be designed to produce a net savings to the state compared to the estimated costs that would otherwise be incurred for similar patients without the program.

Sec. 32. Minnesota Statutes 2008, section 256B.0625, subdivision 17, is amended to read:

Subd. 17. **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) an ambulance, as defined in section 144E.001, subdivision 2;

(2) special transportation; or

(3) common carrier including, but not limited to, bus, taxicab, 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.

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 providers may not bill for separate base rates for the continuation of a trip beyond the original destination. Special transportation providers must take recipients to the nearest appropriate health care provider, using the most direct route available. ~~The maximum~~ minimum medical assistance reimbursement rates for special transportation services are:

(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

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

(2) the base rates for special transportation services in areas defined under RUCA to be super rural shall be equal to the reimbursement rate established in clause (1) plus 11.3 percent; and

(3) for special transportation services in areas defined under RUCA to be rural or super rural areas:

(i) for a trip equal to 17 miles or less, mileage reimbursement shall be equal to 125 percent of the respective mileage rate in clause (1); and

(ii) for a trip between 18 and 50 miles, mileage reimbursement shall be equal to 112.5 percent of the respective mileage rate in clause (1).

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

(d) For purposes of this subdivision, "rural urban commuting area" or "RUCA" means a census-tract based classification system under which a geographical area is determined to be urban, rural, or super rural.

Sec. 33. Minnesota Statutes 2008, section 256B.0625, subdivision 17a, is amended to read:

Subd. 17a. **Payment for ambulance services.** Medical assistance covers ambulance services. Providers shall bill ambulance services according to Medicare criteria. Nonemergency ambulance services shall not be paid as emergencies. Effective for services rendered on or after July 1, 2001, medical assistance payments for ambulance services shall be paid at the Medicare reimbursement rate or at the medical assistance payment rate in effect on July 1, 2000, whichever is greater.

Sec. 34. Minnesota Statutes 2008, section 256B.0625, is amended by adding a subdivision to read:

Subd. 18b. **Broker dispatching prohibition.** The commissioner shall not use a broker or coordinator for any purpose related to transportation services under subdivision 18.

Sec. 35. Minnesota Statutes 2008, section 256B.0625, is amended by adding a subdivision to read:

Subd. 25a. **Prior authorization of diagnostic imaging services.** (a) Effective January 1, 2010, the commissioner shall require prior authorization or decision support for the ordering providers at the time the service is ordered for the following outpatient diagnostic imaging services: computerized tomography (CT), magnetic resonance imaging (MRI), magnetic resonance angiography (MRA), positive emission tomography (PET), cardiac imaging and ultrasound diagnostic imaging.

(b) Prior authorization under this subdivision is not required for diagnostic imaging services performed as part of a hospital emergency room visit, inpatient hospitalization, or if concurrent with or on the same day as an urgent care facility visit.

(c) This subdivision does not apply to services provided to recipients who are enrolled in Medicare, the prepaid medical assistance program, the prepaid general assistance medical care program, or the MinnesotaCare program.

(d) The commissioner may contract with a private entity to provide the prior authorization or decision support required under this subdivision. The contracting entity must incorporate clinical guidelines that are based on evidence-based medical literature, if available. By January 1, 2012, the contracting entity shall report to the commissioner the results of prior authorization or decision support.

Sec. 36. Minnesota Statutes 2008, section 256B.0625, subdivision 26, is amended to read:

**Subd. 26. Special education services.** (a) Medical assistance covers medical services identified in a recipient's individualized education plan and covered under the medical assistance state plan. Covered services include occupational therapy, physical therapy, speech-language therapy, clinical psychological services, nursing services, school psychological services, school social work services, personal care assistants serving as management aides, assistive technology devices, transportation services, health assessments, and other services covered under the medical assistance state plan. Mental health services eligible for medical assistance reimbursement must be provided or coordinated through a children's mental health collaborative where a collaborative exists if the child is included in the collaborative operational target population. The provision or coordination of services does not require that the individual education plan be developed by the collaborative.

The services may be provided by a Minnesota school district that is enrolled as a medical assistance provider or its subcontractor, and only if the services meet all the requirements otherwise applicable if the service had been provided by a provider other than a school district, in the following areas: medical necessity, physician's orders, documentation, personnel qualifications, and prior authorization requirements. The nonfederal share of costs for services provided under this subdivision is the responsibility of the local school district as provided in section 125A.74. Services listed in a child's individual education plan are eligible for medical assistance reimbursement only if those services meet criteria for federal financial participation under the Medicaid program.

(b) Approval of health-related services for inclusion in the individual education plan does not require prior authorization for purposes of reimbursement under this chapter. The commissioner may require physician review and approval of the plan not more than once annually or upon any modification of the individual education plan that reflects a change in health-related services.

(c) Services of a speech-language pathologist provided under this section are covered notwithstanding Minnesota Rules, part 9505.0390, subpart 1, item L, if the person:

(1) holds a masters degree in speech-language pathology;

(2) is licensed by the Minnesota Board of Teaching as an educational speech-language pathologist; and

(3) either has a certificate of clinical competence from the American Speech and Hearing Association, has completed the equivalent educational requirements and work experience necessary for the certificate or has completed the academic program and is acquiring supervised work experience to qualify for the certificate.

(d) Medical assistance coverage for medically necessary services provided under other subdivisions in this section may not be denied solely on the basis that the same or similar services are covered under this subdivision.

(e) The commissioner shall develop and implement package rates, bundled rates, or per diem rates for special education services under which separately covered services are grouped together and billed as a unit in order to reduce administrative complexity.

(f) The commissioner shall develop a cost-based payment structure for payment of these services. The commissioner shall reimburse claims submitted based on an interim rate, and shall settle at a final rate once the department has determined it. The commissioner shall notify the school district of the final rate. The school district has 60 days to appeal the final rate. To appeal the final rate, the school district shall file a written appeal request to the commissioner within 60 days of the date the final rate determination was mailed. The appeal request shall specify (1) the disputed items and (2) the name and address of the person to contact regarding the appeal.

(g) Effective July 1, 2000, medical assistance services provided under an individual education plan or an individual family service plan by local school districts shall not count against medical assistance authorization thresholds for that child.

(h) Nursing services as defined in section 148.171, subdivision 15, and provided as an individual education plan health-related service, are eligible for medical assistance payment if they are otherwise a covered service under the medical assistance program. Medical assistance covers the administration of prescription medications by a licensed nurse who is employed by or under contract with a school district when the administration of medications is identified in the child's individualized education plan. The simple administration of medications alone is not covered under medical assistance when administered by a provider other than a school district or when it is not identified in the child's individualized education plan.

Sec. 37. Minnesota Statutes 2008, section 256B.08, is amended by adding a subdivision to read:

Subd. 4. **Data from Social Security.** The commissioner shall accept data from the Social Security Administration in accordance with United States Code, title 42, section 1396U-5(a).

**EFFECTIVE DATE.** This section is effective January 1, 2010.

Sec. 38. Minnesota Statutes 2008, section 256B.15, subdivision 1, is amended to read:

Subdivision 1. **Policy and applicability.** (a) It is the policy of this state that individuals or

couples, either or both of whom participate in the medical assistance program, use their own assets to pay their share of the total cost of their care during or after their enrollment in the program according to applicable federal law and the laws of this state. The following provisions apply:

(1) subdivisions 1c to 1k shall not apply to claims arising under this section which are presented under section 525.313;

(2) the provisions of subdivisions 1c to 1k expanding the interests included in an estate for purposes of recovery under this section give effect to the provisions of United States Code, title 42, section 1396p, governing recoveries, but do not give rise to any express or implied liens in favor of any other parties not named in these provisions;

(3) the continuation of a recipient's life estate or joint tenancy interest in real property after the recipient's death for the purpose of recovering medical assistance under this section modifies common law principles holding that these interests terminate on the death of the holder;

(4) all laws, rules, and regulations governing or involved with a recovery of medical assistance shall be liberally construed to accomplish their intended purposes;

(5) a deceased recipient's life estate and joint tenancy interests continued under this section shall be owned by the remaindermen or surviving joint tenants as their interests may appear on the date of the recipient's death. They shall not be merged into the remainder interest or the interests of the surviving joint tenants by reason of ownership. They shall be subject to the provisions of this section. Any conveyance, transfer, sale, assignment, or encumbrance by a remainderman, a surviving joint tenant, or their heirs, successors, and assigns shall be deemed to include all of their interest in the deceased recipient's life estate or joint tenancy interest continued under this section; and

(6) the provisions of subdivisions 1c to 1k continuing a recipient's joint tenancy interests in real property after the recipient's death do not apply to a homestead owned of record, on the date the recipient dies, by the recipient and the recipient's spouse as joint tenants with a right of survivorship. Homestead means the real property occupied by the surviving joint tenant spouse as their sole residence on the date the recipient dies and classified and taxed to the recipient and surviving joint tenant spouse as homestead property for property tax purposes in the calendar year in which the recipient dies. For purposes of this exemption, real property the recipient and their surviving joint tenant spouse purchase solely with the proceeds from the sale of their prior homestead, own of record as joint tenants, and qualify as homestead property under section 273.124 in the calendar year in which the recipient dies and prior to the recipient's death shall be deemed to be real property classified and taxed to the recipient and their surviving joint tenant spouse as homestead property in the calendar year in which the recipient dies. The surviving spouse, or any person with personal knowledge of the facts, may provide an affidavit describing the homestead property affected by this clause and stating facts showing compliance with this clause. The affidavit shall be prima facie evidence of the facts it states.

(b) For purposes of this section, "medical assistance" includes the medical assistance program under this chapter and the general assistance medical care program under chapter 256D and alternative care for nonmedical assistance recipients under section 256B.0913.

(c) For purposes of this section, beginning January 1, 2010, "medical assistance" does not include Medicare cost-sharing benefits in accordance with United States Code, title 42, section 1396p.



(d) All provisions in this subdivision, and subdivisions 1d, 1f, 1g, 1h, 1i, and 1j, related to the continuation of a recipient's life estate or joint tenancy interests in real property after the recipient's death for the purpose of recovering medical assistance, are effective only for life estates and joint tenancy interests established on or after August 1, 2003. For purposes of this paragraph, medical assistance does not include alternative care.

Sec. 39. Minnesota Statutes 2008, section 256B.15, subdivision 1a, is amended to read:

Subd. 1a. **Estates subject to claims.** (a) If a person receives any medical assistance hereunder, on the person's death, if single, or on the death of the survivor of a married couple, either or both of whom received medical assistance, or as otherwise provided for in this section, the total amount paid for medical assistance rendered for the person and spouse shall be filed as a claim against the estate of the person or the estate of the surviving spouse in the court having jurisdiction to probate the estate or to issue a decree of descent according to sections 525.31 to 525.313.

(b) For the purposes of this section, the person's estate must consist of:

(1) the person's probate estate;

(2) all of the person's interests or proceeds of those interests in real property the person owned as a life tenant or as a joint tenant with a right of survivorship at the time of the person's death;

(3) all of the person's interests or proceeds of those interests in securities the person owned in beneficiary form as provided under sections 524.6-301 to 524.6-311 at the time of the person's death, to the extent the interests or proceeds of those interests become part of the probate estate under section 524.6-307;

(4) all of the person's interests in joint accounts, multiple-party accounts, and pay-on-death accounts, brokerage accounts, investment accounts, or the proceeds of those accounts, as provided under sections 524.6-201 to 524.6-214 at the time of the person's death to the extent the interests become part of the probate estate under section 524.6-207; and

(5) assets conveyed to a survivor, heir, or assign of the person through survivorship, living trust, or other arrangements.

(c) For the purpose of this section and recovery in a surviving spouse's estate for medical assistance paid for a predeceased spouse, the estate must consist of all of the legal title and interests the deceased individual's predeceased spouse had in jointly owned or marital property at the time of the spouse's death, as defined in subdivision 2b, and the proceeds of those interests, that passed to the deceased individual or another individual, a survivor, an heir, or an assign of the predeceased spouse through a joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement. A deceased recipient who, at death, owned the property jointly with the surviving spouse shall have an interest in the entire property.

(d) For the purpose of recovery in a single person's estate or the estate of a survivor of a married couple, "other arrangement" includes any other means by which title to all or any part of the jointly owned or marital property or interest passed from the predeceased spouse to another including, but not limited to, transfers between spouses which are permitted, prohibited, or penalized for purposes of medical assistance.

(e) A claim shall be filed if medical assistance was rendered for either or both persons under one

of the following circumstances:

~~(a)~~ (1) the person was over 55 years of age, and received services under this chapter;

~~(b)~~ (2) the person resided in a medical institution for six months or longer, received services under this chapter, and, at the time of institutionalization or application for medical assistance, whichever is later, the person could not have reasonably been expected to be discharged and returned home, as certified in writing by the person's treating physician. For purposes of this section only, a "medical institution" means a skilled nursing facility, intermediate care facility, intermediate care facility for persons with developmental disabilities, nursing facility, or inpatient hospital; or

~~(c)~~ (3) the person received general assistance medical care services under chapter 256D.

(f) The claim shall be considered an expense of the last illness of the decedent for the purpose of section 524.3-805. Notwithstanding any law or rule to the contrary, a state or county agency with a claim under this section must be a creditor under section 524.6-307. Any statute of limitations that purports to limit any county agency or the state agency, or both, to recover for medical assistance granted hereunder shall not apply to any claim made hereunder for reimbursement for any medical assistance granted hereunder. Notice of the claim shall be given to all heirs and devisees of the decedent whose identity can be ascertained with reasonable diligence. The notice must include procedures and instructions for making an application for a hardship waiver under subdivision 5; time frames for submitting an application and determination; and information regarding appeal rights and procedures. Counties are entitled to one-half of the nonfederal share of medical assistance collections from estates that are directly attributable to county effort. Counties are entitled to ten percent of the collections for alternative care directly attributable to county effort.

Sec. 40. Minnesota Statutes 2008, section 256B.15, subdivision 1h, is amended to read:

Subd. 1h. **Estates of specific persons receiving medical assistance.** (a) For purposes of this section, paragraphs (b) to ~~(k)~~ (j) apply if a person received medical assistance for which a claim may be filed under this section and died single, or the surviving spouse of the couple and was not survived by any of the persons described in subdivisions 3 and 4.

~~(b) For purposes of this section, the person's estate consists of: (1) the person's probate estate; (2) all of the person's interests or proceeds of those interests in real property the person owned as a life tenant or as a joint tenant with a right of survivorship at the time of the person's death; (3) all of the person's interests or proceeds of those interests in securities the person owned in beneficiary form as provided under sections 524.6-301 to 524.6-311 at the time of the person's death, to the extent they become part of the probate estate under section 524.6-307; (4) all of the person's interests in joint accounts, multiple party accounts, and pay on death accounts, or the proceeds of those accounts, as provided under sections 524.6-201 to 524.6-214 at the time of the person's death to the extent they become part of the probate estate under section 524.6-207; and (5) the person's legal title or interest at the time of the person's death in real property transferred under a transfer on death deed under section 507.071, or in the proceeds from the subsequent sale of the person's interest in the real property. Notwithstanding any law or rule to the contrary, a state or county agency with a claim under this section shall be a creditor under section 524.6-307.~~

~~(c)~~ (b) Notwithstanding any law or rule to the contrary, the person's life estate or joint tenancy interest in real property not subject to a medical assistance lien under sections 514.980 to 514.985 on the date of the person's death shall not end upon the person's death and shall continue as provided

in this subdivision. The life estate in the person's estate shall be that portion of the interest in the real property subject to the life estate that is equal to the life estate percentage factor for the life estate as listed in the Life Estate Mortality Table of the health care program's manual for a person who was the age of the medical assistance recipient on the date of the person's death. The joint tenancy interest in real property in the estate shall be equal to the fractional interest the person would have owned in the jointly held interest in the property had they and the other owners held title to the property as tenants in common on the date the person died.

~~(d)~~ (c) The court upon its own motion, or upon motion by the personal representative or any interested party, may enter an order directing the remaindermen or surviving joint tenants and their spouses, if any, to sign all documents, take all actions, and otherwise fully cooperate with the personal representative and the court to liquidate the decedent's life estate or joint tenancy interests in the estate and deliver the cash or the proceeds of those interests to the personal representative and provide for any legal and equitable sanctions as the court deems appropriate to enforce and carry out the order, including an award of reasonable attorney fees.

~~(e)~~ (d) The personal representative may make, execute, and deliver any conveyances or other documents necessary to convey the decedent's life estate or joint tenancy interest in the estate that are necessary to liquidate and reduce to cash the decedent's interest or for any other purposes.

~~(f)~~ (e) Subject to administration, all costs, including reasonable attorney fees, directly and immediately related to liquidating the decedent's life estate or joint tenancy interest in the decedent's estate, shall be paid from the gross proceeds of the liquidation allocable to the decedent's interest and the net proceeds shall be turned over to the personal representative and applied to payment of the claim presented under this section.

~~(g)~~ (f) The personal representative shall bring a motion in the district court in which the estate is being probated to compel the remaindermen or surviving joint tenants to account for and deliver to the personal representative all or any part of the proceeds of any sale, mortgage, transfer, conveyance, or any disposition of real property allocable to the decedent's life estate or joint tenancy interest in the decedent's estate, and do everything necessary to liquidate and reduce to cash the decedent's interest and turn the proceeds of the sale or other disposition over to the personal representative. The court may grant any legal or equitable relief including, but not limited to, ordering a partition of real estate under chapter 558 necessary to make the value of the decedent's life estate or joint tenancy interest available to the estate for payment of a claim under this section.

~~(h)~~ (g) Subject to administration, the personal representative shall use all of the cash or proceeds of interests to pay an allowable claim under this section. The remaindermen or surviving joint tenants and their spouses, if any, may enter into a written agreement with the personal representative or the claimant to settle and satisfy obligations imposed at any time before or after a claim is filed.

~~(i)~~ (h) The personal representative may, at their discretion, provide any or all of the other owners, remaindermen, or surviving joint tenants with an affidavit terminating the decedent's estate's interest in real property the decedent owned as a life tenant or as a joint tenant with others, if the personal representative determines in good faith that neither the decedent nor any of the decedent's predeceased spouses received any medical assistance for which a claim could be filed under this section, or if the personal representative has filed an affidavit with the court that the estate has other assets sufficient to pay a claim, as presented, or if there is a written agreement under paragraph ~~(h)~~ (g), or if the claim, as allowed, has been paid in full or to the full extent of the

assets the estate has available to pay it. The affidavit may be recorded in the office of the county recorder or filed in the Office of the Registrar of Titles for the county in which the real property is located. Except as provided in section 514.981, subdivision 6, when recorded or filed, the affidavit shall terminate the decedent's interest in real estate the decedent owned as a life tenant or a joint tenant with others. The affidavit shall:

- (1) be signed by the personal representative;
- (2) identify the decedent and the interest being terminated;
- (3) give recording information sufficient to identify the instrument that created the interest in real property being terminated;
- (4) legally describe the affected real property;
- (5) state that the personal representative has determined that neither the decedent nor any of the decedent's predeceased spouses received any medical assistance for which a claim could be filed under this section;
- (6) state that the decedent's estate has other assets sufficient to pay the claim, as presented, or that there is a written agreement between the personal representative and the claimant and the other owners or remaindermen or other joint tenants to satisfy the obligations imposed under this subdivision; and
- (7) state that the affidavit is being given to terminate the estate's interest under this subdivision, and any other contents as may be appropriate.

The recorder or registrar of titles shall accept the affidavit for recording or filing. The affidavit shall be effective as provided in this section and shall constitute notice even if it does not include recording information sufficient to identify the instrument creating the interest it terminates. The affidavit shall be conclusive evidence of the stated facts.

~~(j)~~ (i) The holder of a lien arising under subdivision 1c shall release the lien at the holder's expense against an interest terminated under paragraph ~~(h)~~ (g) to the extent of the termination.

~~(k)~~ (j) If a lien arising under subdivision 1c is not released under paragraph ~~(j)~~ (i), prior to closing the estate, the personal representative shall deed the interest subject to the lien to the remaindermen or surviving joint tenants as their interests may appear. Upon recording or filing, the deed shall work a merger of the recipient's life estate or joint tenancy interest, subject to the lien, into the remainder interest or interest the decedent and others owned jointly. The lien shall attach to and run with the property to the extent of the decedent's interest at the time of the decedent's death.

Sec. 41. Minnesota Statutes 2008, section 256B.15, subdivision 2, is amended to read:

Subd. 2. **Limitations on claims.** The claim shall include only the total amount of medical assistance rendered after age 55 or during a period of institutionalization described in subdivision 1a, ~~clause (b) paragraph (e)~~, and the total amount of general assistance medical care rendered, and shall not include interest. Claims that have been allowed but not paid shall bear interest according to section 524.3-806, paragraph (d). A claim against the estate of a surviving spouse who did not receive medical assistance, for medical assistance rendered for the predeceased spouse, shall be payable from the full value of all of the predeceased spouse's assets and interests which are part

of the surviving spouse's estate under subdivisions 1a and 2b. Recovery of medical assistance expenses in the nonrecipient surviving spouse's estate is limited to the value of the assets of the estate that were marital property or jointly owned property at any time during the marriage. The claim is not payable from the value of assets or proceeds of assets in the estate attributable to a predeceased spouse whom the individual married after the death of the predeceased recipient spouse for whom the claim is filed or from assets and the proceeds of assets in the estate which the nonrecipient decedent spouse acquired with assets which were not marital property or jointly owned property after the death of the predeceased recipient spouse. Claims for alternative care shall be net of all premiums paid under section 256B.0913, subdivision 12, on or after July 1, 2003, and shall be limited to services provided on or after July 1, 2003. Claims against marital property shall be limited to claims against recipients who died on or after July 1, 2009.

Sec. 42. Minnesota Statutes 2008, section 256B.15, is amended by adding a subdivision to read:

Subd. 2b. **Controlling provisions.** (a) For purposes of this subdivision and subdivisions 1a and 2, paragraphs (b) to (d) apply.

(b) At the time of death of a recipient spouse and solely for purpose of recovery of medical assistance benefits received, a predeceased recipient spouse shall have a legal title or interest in the undivided whole of all of the property which the recipient and the recipient's surviving spouse owned jointly or which was marital property at any time during their marriage regardless of the form of ownership and regardless of whether it was owned or titled in the names of one or both the recipient and the recipient's spouse. Title and interest in the property of a predeceased recipient spouse shall not end or extinguish upon the person's death and shall continue for the purpose of allowing recovery of medical assistance in the estate of the surviving spouse. Upon the death of the predeceased recipient spouse, title and interest in the predeceased spouse's property shall vest in the surviving spouse by operation of law and without the necessity for any probate or decree of descent proceedings and shall continue to exist after the death of the predeceased spouse and the surviving spouse to permit recovery of medical assistance. The recipient spouse and the surviving spouse of a deceased recipient spouse shall not encumber, disclaim, transfer, alienate, hypothecate, or otherwise divest themselves of these interests before or upon death.

(c) For purposes of this section, "marital property" includes any and all real or personal property of any kind or interests in such property the predeceased recipient spouse and their spouse, or either of them, owned at the time of their marriage to each other or acquired during their marriage regardless of whether it was owned or titled in the names of one or both of them. If either or both spouses of a married couple received medical assistance, all property owned during the marriage or which either or both spouses acquired during their marriage shall be presumed to be marital property for purposes of recovering medical assistance unless there is clear and convincing evidence to the contrary.

(d) The agency responsible for the claim for medical assistance for a recipient spouse may, at its discretion, release specific real and personal property from the provisions of this section. The release shall extinguish the interest created under paragraph (b) in the land it describes upon filing or recording. The release need not be attested, certified, or acknowledged as a condition of filing or recording and shall be filed or recorded in the office of the county recorder or registrar of titles, as appropriate, in the county where the real property is located. The party to whom the release is given shall be responsible for paying all fees and costs necessary to record and file the release. If the property described in the release is registered property, the registrar of titles shall accept it for

recording and shall record it on the certificate of title for each parcel of property described in the release. If the property described in the release is abstract property, the recorder shall accept it for filing and file it in the county's grantor-grantee indexes and any tract index the county maintains for each parcel of property described in the release.

Sec. 43. Minnesota Statutes 2008, section 256B.15, is amended by adding a subdivision to read:

Subd. 9. **Commissioner's intervention.** The commissioner shall be permitted to intervene as a party in any proceeding involving recovery of medical assistance upon filing a notice of intervention and serving such notice on the other parties.

Sec. 44. **[256B.196] INTERGOVERNMENTAL TRANSFERS; HOSPITAL PAYMENTS.**

Subdivision 1. **Federal approval required.** This section is contingent on federal approval of the intergovernmental transfers and payments authorized under this section. This section is also contingent on current payment by the government entities of the intergovernmental transfers under this section.

Subd. 2. **Commissioner's duties.** (a) For the purposes of this subdivision and subdivision 3, the commissioner shall determine the fee-for-service outpatient hospital services upper payment limit for nonstate government hospitals. The commissioner shall then determine the amount of a supplemental payment to Hennepin County Medical Center and Regions Hospital for these services that would increase medical assistance spending in this category to the aggregate upper payment limit for all nonstate government hospitals in Minnesota. In making this determination, the commissioner shall allot the available increases between Hennepin County Medical Center and Regions Hospital based on the ratio of medical assistance fee-for-service outpatient hospital payments to the two facilities. The commissioner shall adjust this allotment as necessary based on federal approvals, the amount of intergovernmental transfers received from Hennepin and Ramsey Counties, and other factors, in order to maximize the additional total payments. The commissioner shall inform Hennepin County and Ramsey County of the periodic intergovernmental transfers necessary to match federal Medicaid payments available under this subdivision in order to make supplementary medical assistance payments to Hennepin County Medical Center and Regions Hospital equal to an amount that when combined with existing medical assistance payments to nonstate governmental hospitals would increase total payments to hospitals in this category for outpatient services to the aggregate upper payment limit for all hospitals in this category in Minnesota. Upon receipt of these periodic transfers, the commissioner shall make supplementary payments to Hennepin County Medical Center and Regions Hospital.

(b) For the purposes of this subdivision and subdivision 3, the commissioner shall determine an upper payment limit for physicians affiliated with Hennepin County Medical Center and with Regions Hospital. The upper payment limit shall be based on the average commercial rate or be determined using another method acceptable to the Centers for Medicare and Medicaid Services. The commissioner shall inform Hennepin County and Ramsey County of the periodic intergovernmental transfers necessary to match the federal Medicaid payments available under this subdivision in order to make supplementary payments to physicians affiliated with Hennepin County Medical Center and Regions Hospital equal to the difference between the established medical assistance payment for physician services and the upper payment limit. Upon receipt of these periodic transfers, the commissioner shall make supplementary payments to physicians of Hennepin Faculty Associates and HealthPartners.

(c) Beginning January 1, 2010, Hennepin County and Ramsey County shall make monthly intergovernmental transfers to the commissioner in the following amounts: \$133,333 by Hennepin County and \$100,000 by Ramsey County. The commissioner shall increase the medical assistance capitation payments to Metropolitan Health Plan and HealthPartners by an amount equal to the annual value of the monthly transfers plus federal financial participation.

(d) The commissioner shall inform Hennepin County and Ramsey County on an ongoing basis of the need for any changes needed in the intergovernmental transfers in order to continue the payments under paragraphs (a) to (c), at their maximum level, including increases in upper payment limits, changes in the federal Medicaid match, and other factors.

(e) The payments in paragraphs (a) to (c) shall be implemented independently of each other, subject to federal approval and to the receipt of transfers under subdivision 3.

Subd. 3. **Intergovernmental transfers.** Based on the determination by the commissioner under subdivision 2, Hennepin County and Ramsey County shall make periodic intergovernmental transfers to the commissioner for the purposes of subdivision 2, paragraphs (a) to (c). All of the intergovernmental transfers made by Hennepin County shall be used to match federal payments to Hennepin County Medical Center under subdivision 2, paragraph (a); to physicians affiliated with Hennepin Faculty Associates under subdivision 2, paragraph (b); and to Metropolitan Health Plan under subdivision 2, paragraph (c). All of the intergovernmental transfers made by Ramsey County shall be used to match federal payments to Regions Hospital under subdivision 2, paragraph (a); to physicians affiliated with HealthPartners under subdivision 2, paragraph (b); and to HealthPartners under subdivision 2, paragraph (c).

Subd. 4. **Adjustments permitted.** (a) The commissioner may adjust the intergovernmental transfers under subdivision 3 and the payments under subdivision 2, based on the commissioner's determination of Medicare upper payment limits, hospital-specific charge limits, hospital-specific limitations on disproportionate share payments, medical inflation, actuarial certification, and cost-effectiveness for purposes of federal waivers. Any adjustments must be made on a proportional basis. The commissioner may make adjustments under this subdivision only after consultation with the affected counties and hospitals. All payments under subdivision 2 and all intergovernmental transfers under subdivision 3 are limited to amounts available after all other base rates, adjustments, and supplemental payments in chapter 256B are calculated.

(b) The ratio of medical assistance payments specified in subdivision 2 to the voluntary intergovernmental transfers specified in subdivision 3 shall not be reduced except as provided under paragraph (a).

Subd. 5. **Recession period.** Each type of intergovernmental transfer in subdivision 2, paragraphs (a) to (d), for payment periods from October 1, 2008, through December 31, 2010, is voluntary on the part of Hennepin and Ramsey Counties, meaning that the transfer must be agreed to, in writing, by the counties prior to any payments being issued. One agreement on each type of transfer shall cover the entire recession period.

Sec. 45. Minnesota Statutes 2008, section 256B.199, is amended to read:

**256B.199 PAYMENTS REPORTED BY GOVERNMENTAL ENTITIES.**

(a) Effective July 1, 2007, the commissioner shall apply for federal matching funds for the

expenditures in paragraphs (b) and (c).

(b) The commissioner shall apply for federal matching funds for certified public expenditures as follows:

(1) Hennepin County, Hennepin County Medical Center, Ramsey County, Regions Hospital, the University of Minnesota, and Fairview-University Medical Center shall report quarterly to the commissioner beginning June 1, 2007, payments made during the second previous quarter that may qualify for reimbursement under federal law;

(2) based on these reports, the commissioner shall apply for federal matching funds. These funds are appropriated to the commissioner for the payments under section 256.969, subdivision 27; and

(3) by May 1 of each year, beginning May 1, 2007, the commissioner shall inform the nonstate entities listed in paragraph (a) of the amount of federal disproportionate share hospital payment money expected to be available in the current federal fiscal year.

(c) The commissioner shall apply for federal matching funds for general assistance medical care expenditures as follows:

(1) for hospital services occurring on or after July 1, 2007, general assistance medical care expenditures for fee-for-service inpatient and outpatient hospital payments made by the department shall be used to apply for federal matching funds, except as limited below:

(i) only those general assistance medical care expenditures made to an individual hospital that would not cause the hospital to exceed its individual hospital limits under section 1923 of the Social Security Act may be considered; and

(ii) general assistance medical care expenditures may be considered only to the extent of Minnesota's aggregate allotment under section 1923 of the Social Security Act; and

(2) all hospitals must provide any necessary expenditure, cost, and revenue information required by the commissioner as necessary for purposes of obtaining federal Medicaid matching funds for general assistance medical care expenditures.

(d) For the period from April 1, 2009, to September 30, 2010, the commissioner shall apply for additional federal matching funds available as disproportionate share hospital payments under the American Recovery and Reinvestment Act of 2009. These funds shall be made available as the state share of payments under section 256.969, subdivision 28. The entities required to report certified public expenditures under paragraph (b), clause (1), shall report additional certified public expenditures as necessary under this paragraph.

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

Sec. 46. Minnesota Statutes 2008, section 256B.69, subdivision 5a, is amended to read:

Subd. 5a. **Managed care contracts.** (a) Managed care contracts under this section and sections 256L.12 and 256D.03, shall be entered into or renewed on a calendar year basis beginning January 1, 1996. Managed care contracts which were in effect on June 30, 1995, and set to renew on July 1, 1995, shall be renewed for the period July 1, 1995 through December 31, 1995 at the same terms that were in effect on June 30, 1995. The commissioner may issue separate contracts with requirements specific to services to medical assistance recipients age 65 and older.



(b) A prepaid health plan providing covered health services for eligible persons pursuant to chapters 256B, 256D, and 256L, is responsible for complying with the terms of its contract with the commissioner. Requirements applicable to managed care programs under chapters 256B, 256D, and 256L, established after the effective date of a contract with the commissioner take effect when the contract is next issued or renewed.

(c) Effective for services rendered on or after January 1, 2003, the commissioner shall withhold five percent of managed care plan payments under this section and county-based purchasing plan's payment rate under section 256B.692 for the prepaid medical assistance and general assistance medical care programs pending completion of performance targets. Each performance target must be quantifiable, objective, measurable, and reasonably attainable, except in the case of a performance target based on a federal or state law or rule. Criteria for assessment of each performance target must be outlined in writing prior to the contract effective date. The managed care plan must demonstrate, to the commissioner's satisfaction, that the data submitted regarding attainment of the performance target is accurate. The commissioner shall periodically change the administrative measures used as performance targets in order to improve plan performance across a broader range of administrative services. The performance targets must include measurement of plan efforts to contain spending on health care services and administrative activities. The commissioner may adopt plan-specific performance targets that take into account factors affecting only one plan, including characteristics of the plan's enrollee population. The withheld funds must be returned no sooner than July of the following year if performance targets in the contract are achieved. The commissioner may exclude special demonstration projects under subdivision 23. ~~A managed care plan or a county-based purchasing plan under section 256B.692 may include as admitted assets under section 62D.044 any amount withheld under this paragraph that is reasonably expected to be returned.~~

~~(d)(1)~~ Effective for services rendered on or after January 1, 2009, through December 31, 2009, the commissioner shall withhold three percent of managed care plan payments under this section and county-based purchasing plan payments under section 256B.692 for the prepaid medical assistance and general assistance medical care programs. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following year. The commissioner may exclude special demonstration projects under subdivision 23.

~~(2)~~ ~~A managed care plan or a county-based purchasing plan under section 256B.692 may include as admitted assets under section 62D.044 any amount withheld under this paragraph.~~ The return of the withhold under this paragraph is not subject to the requirements of paragraph (c).

(e) Effective for services rendered on or after January 1, 2010, through December 31, 2010, the commissioner shall withhold 3.5 percent of managed care plan payments under this section and county-based purchasing plan payments under section 256B.692 for the prepaid medical assistance program. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following year. The commissioner may exclude special demonstration projects under subdivision 23.

(f) Effective for services rendered on or after January 1, 2011, through December 31, 2011, the commissioner shall withhold four percent of managed care plan payments under this section and county-based purchasing plan payments under section 256B.692 for the prepaid medical assistance program. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following year. The commissioner may exclude special demonstration projects under subdivision

23.

(g) Effective for services rendered on or after January 1, 2012, through December 31, 2012, the commissioner shall withhold 4.5 percent of managed care plan payments under this section and county-based purchasing plan payments under section 256B.692 for the prepaid medical assistance program. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following year. The commissioner may exclude special demonstration projects under subdivision 23.

(h) Effective for services rendered on or after January 1, 2013, through December 31, 2013, the commissioner shall withhold 4.5 percent of managed care plan payments under this section and county-based purchasing plan payments under section 256B.692 for the prepaid medical assistance program. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following year. The commissioner may exclude special demonstration projects under subdivision 23.

(i) Effective for services rendered on or after January 1, 2014, the commissioner shall withhold three percent of managed care plan payments under this section and county-based purchasing plan payments under section 256B.692 for the prepaid medical assistance and prepaid general assistance medical care programs. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following year. The commissioner may exclude special demonstration projects under subdivision 23.

(j) A managed care plan or a county-based purchasing plan under section 256B.692 may include as admitted assets under section 62D.044 any amount withheld under this section that is reasonably expected to be returned.

Sec. 47. Minnesota Statutes 2008, section 256B.69, subdivision 5c, is amended to read:

Subd. 5c. **Medical education and research fund.** (a) Except as provided in paragraph (c), the commissioner of human services shall transfer each year to the medical education and research fund established under section 62J.692, the following:

(1) an amount equal to the reduction in the prepaid medical assistance and prepaid general assistance medical care payments as specified in this clause. Until January 1, 2002, the county medical assistance and general assistance medical care capitation base rate prior to plan specific adjustments and after the regional rate adjustments under section 256B.69, subdivision 5b, is reduced 6.3 percent for Hennepin County, two percent for the remaining metropolitan counties, and no reduction for nonmetropolitan Minnesota counties; and after January 1, 2002, the county medical assistance and general assistance medical care capitation base rate prior to plan specific adjustments is reduced 6.3 percent for Hennepin County, two percent for the remaining metropolitan counties, and 1.6 percent for nonmetropolitan Minnesota counties. Nursing facility and elderly waiver payments and demonstration project payments operating under subdivision 23 are excluded from this reduction. The amount calculated under this clause shall not be adjusted for periods already paid due to subsequent changes to the capitation payments;

(2) beginning July 1, 2003, ~~\$2,157,000~~ \$4,314,000 from the capitation rates paid under this section ~~plus any federal matching funds on this amount;~~

(3) beginning July 1, 2002, an additional \$12,700,000 from the capitation rates paid under this

section; and

(4) beginning July 1, 2003, an additional \$4,700,000 from the capitation rates paid under this section.

(b) This subdivision shall be effective upon approval of a federal waiver which allows federal financial participation in the medical education and research fund. Effective July 1, 2009, and thereafter, the transfers required by paragraph (a), clauses (1) to (4), shall not exceed the total amount transferred for fiscal year 2009. Any excess shall first reduce the amounts otherwise required to be transferred under paragraph (a), clauses (2) to (4). Any excess following this reduction shall proportionally reduce the transfers under paragraph (a), clause (1).

(c) Effective July 1, 2003, the amount reduced from the prepaid general assistance medical care payments under paragraph (a), clause (1), shall be transferred to the general fund.

(d) Beginning July 1, 2009, of the amounts in paragraph (a), the commissioner shall transfer \$21,714,000 each fiscal year to the medical education and research fund. The balance of the transfers under paragraph (a) shall be transferred to the medical education and research fund no earlier than July 1 of the following fiscal year.

Sec. 48. Minnesota Statutes 2008, section 256B.69, subdivision 5f, is amended to read:

Subd. 5f. **Capitation rates.** (a) Beginning July 1, 2002, the capitation rates paid under this section are increased by \$12,700,000 per year. Beginning July 1, 2003, the capitation rates paid under this section are increased by \$4,700,000 per year.

(b) Beginning July 1, 2009, the capitation rates paid under this section are increased each year by the lesser of \$21,714,000 or an amount equal to the difference between the estimated value of the reductions described in subdivision 5c, paragraph (a), clause (1), and the amount of the limit described in subdivision 5c, paragraph (b).

Sec. 49. Minnesota Statutes 2008, section 256B.69, subdivision 23, is amended to read:

Subd. 23. **Alternative services; elderly and disabled persons.** (a) The commissioner may implement demonstration projects to create alternative integrated delivery systems for acute and long-term care services to elderly persons and persons with disabilities as defined in section 256B.77, subdivision 7a, that provide increased coordination, improve access to quality services, and mitigate future cost increases. The commissioner may seek federal authority to combine Medicare and Medicaid capitation payments for the purpose of such demonstrations and may contract with Medicare-approved special needs plans to provide Medicaid services. Medicare funds and services shall be administered according to the terms and conditions of the federal contract and demonstration provisions. For the purpose of administering medical assistance funds, demonstrations under this subdivision are subject to subdivisions 1 to 22. The provisions of Minnesota Rules, parts 9500.1450 to 9500.1464, apply to these demonstrations, with the exceptions of parts 9500.1452, subpart 2, item B; and 9500.1457, subpart 1, items B and C, which do not apply to persons enrolling in demonstrations under this section. An initial open enrollment period may be provided. Persons who disenroll from demonstrations under this subdivision remain subject to Minnesota Rules, parts 9500.1450 to 9500.1464. When a person is enrolled in a health plan under these demonstrations and the health plan's participation is subsequently terminated for any reason, the person shall be provided an opportunity to select a new health plan and shall have the right

to change health plans within the first 60 days of enrollment in the second health plan. Persons required to participate in health plans under this section who fail to make a choice of health plan shall not be randomly assigned to health plans under these demonstrations. Notwithstanding section 256L.12, subdivision 5, and Minnesota Rules, part 9505.5220, subpart 1, item A, if adopted, for the purpose of demonstrations under this subdivision, the commissioner may contract with managed care organizations, including counties, to serve only elderly persons eligible for medical assistance, elderly and disabled persons, or disabled persons only. For persons with a primary diagnosis of developmental disability, serious and persistent mental illness, or serious emotional disturbance, the commissioner must ensure that the county authority has approved the demonstration and contracting design. Enrollment in these projects for persons with disabilities shall be voluntary. The commissioner shall not implement any demonstration project under this subdivision for persons with a primary diagnosis of developmental disabilities, serious and persistent mental illness, or serious emotional disturbance, without approval of the county board of the county in which the demonstration is being implemented.

(b) Notwithstanding chapter 245B, sections 252.40 to 252.46, 256B.092, 256B.501 to 256B.5015, and Minnesota Rules, parts 9525.0004 to 9525.0036, 9525.1200 to 9525.1330, 9525.1580, and 9525.1800 to 9525.1930, the commissioner may implement under this section projects for persons with developmental disabilities. The commissioner may capitate payments for ICF/MR services, waived services for developmental disabilities, including case management services, day training and habilitation and alternative active treatment services, and other services as approved by the state and by the federal government. Case management and active treatment must be individualized and developed in accordance with a person-centered plan. Costs under these projects may not exceed costs that would have been incurred under fee-for-service. Beginning July 1, 2003, and until four years after the pilot project implementation date, subcontractor participation in the long-term care developmental disability pilot is limited to a nonprofit long-term care system providing ICF/MR services, home and community-based waiver services, and in-home services to no more than 120 consumers with developmental disabilities in Carver, Hennepin, and Scott Counties. The commissioner shall report to the legislature prior to expansion of the developmental disability pilot project. This paragraph expires four years after the implementation date of the pilot project.

(c) Before implementation of a demonstration project for disabled persons, the commissioner must provide information to appropriate committees of the house of representatives and senate and must involve representatives of affected disability groups in the design of the demonstration projects.

(d) A nursing facility reimbursed under the alternative reimbursement methodology in section 256B.434 may, in collaboration with a hospital, clinic, or other health care entity provide services under paragraph (a). The commissioner shall amend the state plan and seek any federal waivers necessary to implement this paragraph.

(e) The commissioner, in consultation with the commissioners of commerce and health, may approve and implement programs for all-inclusive care for the elderly (PACE) according to federal laws and regulations governing that program and state laws or rules applicable to participating providers. The process for approval of these programs shall begin only after the commissioner receives grant money in an amount sufficient to cover the state share of the administrative and actuarial costs to implement the programs during state fiscal years 2006 and 2007. Grant amounts for this purpose shall be deposited in an account in the special revenue fund and are appropriated

to the commissioner to be used solely for the purpose of PACE administrative and actuarial costs. A PACE provider is not required to be licensed or certified as a health plan company as defined in section 62Q.01, subdivision 4. Persons age 55 and older who have been screened by the county and found to be eligible for services under the elderly waiver or community alternatives for disabled individuals or who are already eligible for Medicaid but meet level of care criteria for receipt of waiver services may choose to enroll in the PACE program. Medicare and Medicaid services will be provided according to this subdivision and federal Medicare and Medicaid requirements governing PACE providers and programs. PACE enrollees will receive Medicaid home and community-based services through the PACE provider as an alternative to services for which they would otherwise be eligible through home and community-based waiver programs and Medicaid State Plan Services. The commissioner shall establish Medicaid rates for PACE providers that do not exceed costs that would have been incurred under fee-for-service or other relevant managed care programs operated by the state.

(f) The commissioner shall seek federal approval to expand the Minnesota disability health options (MnDHO) program established under this subdivision in stages, first to regional population centers outside the seven-county metro area and then to all areas of the state. Until July 1, 2009, expansion for MnDHO projects that include home and community-based services is limited to the two projects and service areas in effect on March 1, 2006. Enrollment in integrated MnDHO programs that include home and community-based services shall remain voluntary. Costs for home and community-based services included under MnDHO must not exceed costs that would have been incurred under the fee-for-service program. Notwithstanding whether expansion occurs under this paragraph, in determining MnDHO payment rates and risk adjustment methods for contract years starting in 2012, the commissioner must consider the methods used to determine county allocations for home and community-based program participants. If necessary to reduce MnDHO rates to comply with the provision regarding MnDHO costs for home and community-based services, the commissioner shall achieve the reduction by maintaining the base rate for contract years 2010 and 2011 for services provided under the community alternatives for disabled individuals waiver at the same level as for contract year 2009. The commissioner may apply other reductions to MnDHO rates to implement decreases in provider payment rates required by state law. In developing program specifications for expansion of integrated programs, the commissioner shall involve and consult the state-level stakeholder group established in subdivision 28, paragraph (d), including consultation on whether and how to include home and community-based waiver programs. Plans for further expansion of MnDHO projects shall be presented to the chairs of the house of representatives and senate committees with jurisdiction over health and human services policy and finance by February 1, 2007.

(g) Notwithstanding section 256B.0261, health plans providing services under this section are responsible for home care targeted case management and relocation targeted case management. Services must be provided according to the terms of the waivers and contracts approved by the federal government.

#### Sec. 50. [256B.756] REIMBURSEMENT RATES FOR BIRTHS.

Subdivision 1. **Facility rate.** (a) Notwithstanding section 256.969, effective for services provided on or after October 1, 2009, the facility payment rate for the following diagnosis-related groups, as they fall within the diagnostic categories: (1) 371 cesarean section without complicating diagnosis; (2) 372 vaginal delivery with complicating diagnosis; and (3) 373 vaginal delivery

without complicating diagnosis, shall be calculated as provided in paragraph (b).

(b) The commissioner shall calculate a single rate for all of the diagnostic related groups specified in paragraph (a) consistent with an increase in the proportion of births by vaginal delivery and a reduction in the percentage of births by cesarean section. The calculated single rate must be based on an expected increase in the number of vaginal births and expected reduction in the number of cesarean section such that the reduction in cesarean sections is less than or equal to one standard deviation below the average in the frequency of cesarean births for Minnesota health care program clients at hospitals performing greater than 50 deliveries per year.

(c) The rates described in this subdivision do not include newborn care.

Subd. 2. **Provider rate.** Notwithstanding section 256B.76, effective for services provided on or after October 1, 2009, the payment rate for professional services related to labor, delivery, and antepartum and postpartum care when provided for any of the diagnostic categories identified in subdivision 1, paragraph (a), shall be calculated using the methodology specified in subdivision 1, paragraph (b).

Subd. 3. **Health plans.** Payments to managed care and county-based purchasing plans under sections 256B.69, 256B.692, or 256L.12 shall be reduced for services provided on or after October 1, 2009, to reflect the adjustments in subdivisions 1 and 2.

Subd. 4. **Prior authorization.** Prior authorization shall not be required before reimbursement is paid for a cesarean section delivery.

Sec. 51. Minnesota Statutes 2008, section 256B.76, subdivision 1, is amended to read:

Subdivision 1. **Physician reimbursement.** (a) Effective for services rendered on or after October 1, 1992, the commissioner shall make payments for physician services as follows:

(1) payment for level one Centers for Medicare and Medicaid Services' common procedural coding system codes titled "office and other outpatient services," "preventive medicine new and established patient," "delivery, antepartum, and postpartum care," "critical care," cesarean delivery and pharmacologic management provided to psychiatric patients, and level three codes for enhanced services for prenatal high risk, shall be paid at the lower of (i) submitted charges, or (ii) 25 percent above the rate in effect on June 30, 1992. If the rate on any procedure code within these categories is different than the rate that would have been paid under the methodology in section 256B.74, subdivision 2, then the larger rate shall be paid;

(2) payments for all other services shall be paid at the lower of (i) submitted charges, or (ii) 15.4 percent above the rate in effect on June 30, 1992; and

(3) all physician rates shall be converted from the 50th percentile of 1982 to the 50th percentile of 1989, less the percent in aggregate necessary to equal the above increases except that payment rates for home health agency services shall be the rates in effect on September 30, 1992.

(b) Effective for services rendered on or after January 1, 2000, payment rates for physician and professional services shall be increased by three percent over the rates in effect on December 31, 1999, except for home health agency and family planning agency services. The increases in this paragraph shall be implemented January 1, 2000, for managed care.

(c) Effective for services rendered on or after July 1, 2009, payment rates for physician and professional services shall be reduced by five percent over the rates in effect on June 30, 2009. This reduction does not apply to office or other outpatient services (procedure codes 99201 to 99215), preventive medicine services (procedure codes 99381 to 99412) and family planning services billed by the following primary care specialties: general practice, internal medicine, pediatrics, geriatrics, family practice, or by an advanced practice registered nurse or physician assistant practicing in pediatrics, geriatrics, or family practice. This reduction does not apply to federally qualified health centers, rural health centers, and Indian health services. Effective October 1, 2009, payments made to managed care plans and county-based purchasing plans under sections 256B.69, 256B.692, and 256L.12 shall reflect the payment reduction described in this paragraph.

Sec. 52. **[256B.766] REIMBURSEMENT FOR BASIC CARE SERVICES.**

(a) Effective for services provided on or after July 1, 2009, total payments for basic care services, shall be reduced by three percent, prior to third-party liability and spenddown calculation. Payments made to managed care plans and county-based purchasing plans shall be reduced for services provided on or after October 1, 2009, to reflect this reduction.

(b) This section does not apply to physician and professional services, inpatient hospital services, family planning services, mental health services, dental services, prescription drugs, and medical transportation.

Sec. 53. Minnesota Statutes 2008, section 256D.03, subdivision 4, is amended to read:

Subd. 4. **General assistance medical care; services.** (a)(i) For a person who is eligible under subdivision 3, paragraph (a), clause (2), item (i), general assistance medical care covers, except as provided in paragraph (c):

- (1) inpatient hospital services;
- (2) outpatient hospital services;
- (3) services provided by Medicare certified rehabilitation agencies;
- (4) prescription drugs and other products recommended through the process established in section 256B.0625, subdivision 13;
- (5) equipment necessary to administer insulin and diagnostic supplies and equipment for diabetics to monitor blood sugar level;
- (6) eyeglasses and eye examinations provided by a physician or optometrist;
- (7) hearing aids;
- (8) prosthetic devices;
- (9) laboratory and X-ray services;
- (10) physician's services;
- (11) medical transportation except special transportation;
- (12) chiropractic services as covered under the medical assistance program;

- (13) podiatric services;
- (14) dental services as covered under the medical assistance program;
- (15) mental health services covered under chapter 256B;
- (16) prescribed medications for persons who have been diagnosed as mentally ill as necessary to prevent more restrictive institutionalization;
- (17) medical supplies and equipment, and Medicare premiums, coinsurance and deductible payments;
- (18) medical equipment not specifically listed in this paragraph when the use of the equipment will prevent the need for costlier services that are reimbursable under this subdivision;
- (19) services performed by a certified pediatric nurse practitioner, a certified family nurse practitioner, a certified adult nurse practitioner, a certified obstetric/gynecological nurse practitioner, a certified neonatal nurse practitioner, or a certified geriatric nurse practitioner in independent practice, if (1) the service is otherwise covered under this chapter as a physician service, (2) the service provided on an inpatient basis is not included as part of the cost for inpatient services included in the operating payment rate, and (3) the service is within the scope of practice of the nurse practitioner's license as a registered nurse, as defined in section 148.171;
- (20) services of a certified public health nurse or a registered nurse practicing in a public health nursing clinic that is a department of, or that operates under the direct authority of, a unit of government, if the service is within the scope of practice of the public health nurse's license as a registered nurse, as defined in section 148.171;
- (21) telemedicine consultations, to the extent they are covered under section 256B.0625, subdivision 3b;
- (22) care coordination and patient education services provided by a community health worker according to section 256B.0625, subdivision 49; and
- (23) regardless of the number of employees that an enrolled health care provider may have, sign language interpreter services when provided by an enrolled health care provider during the course of providing a direct, person-to-person covered health care service to an enrolled recipient who has a hearing loss and uses interpreting services.
  - (ii) Effective October 1, 2003, for a person who is eligible under subdivision 3, paragraph (a), clause (2), item (ii), general assistance medical care coverage is limited to inpatient hospital services, including physician services provided during the inpatient hospital stay. A \$1,000 deductible is required for each inpatient hospitalization.
  - (b) Effective August 1, 2005, sex reassignment surgery is not covered under this subdivision.
  - (c) In order to contain costs, the commissioner of human services shall select vendors of medical care who can provide the most economical care consistent with high medical standards and shall where possible contract with organizations on a prepaid capitation basis to provide these services. The commissioner shall consider proposals by counties and vendors for prepaid health plans, competitive bidding programs, block grants, or other vendor payment mechanisms designed to provide services in an economical manner or to control utilization, with safeguards to ensure that



necessary services are provided. Before implementing prepaid programs in counties with a county operated or affiliated public teaching hospital or a hospital or clinic operated by the University of Minnesota, the commissioner shall consider the risks the prepaid program creates for the hospital and allow the county or hospital the opportunity to participate in the program in a manner that reflects the risk of adverse selection and the nature of the patients served by the hospital, provided the terms of participation in the program are competitive with the terms of other participants considering the nature of the population served. Payment for services provided pursuant to this subdivision shall be as provided to medical assistance vendors of these services under sections 256B.02, subdivision 8, and 256B.0625. For payments made during fiscal year 1990 and later years, the commissioner shall consult with an independent actuary in establishing prepayment rates, but shall retain final control over the rate methodology.

(d) Effective January 1, 2008, drug coverage under general assistance medical care is limited to prescription drugs that:

(i) are covered under the medical assistance program as described in section 256B.0625, subdivisions 13 and 13d; and

(ii) are provided by manufacturers that have fully executed general assistance medical care rebate agreements with the commissioner and comply with the agreements. Prescription drug coverage under general assistance medical care must conform to coverage under the medical assistance program according to section 256B.0625, subdivisions 13 to 13g.

(e) Recipients eligible under subdivision 3, paragraph (a), shall pay the following co-payments for services provided on or after October 1, 2003, and before January 1, 2009:

(1) \$25 for eyeglasses;

(2) \$25 for nonemergency visits to a hospital-based emergency room;

(3) \$3 per brand-name drug prescription and \$1 per generic drug prescription, subject to a \$12 per month maximum for prescription drug co-payments. No co-payments shall apply to antipsychotic drugs when used for the treatment of mental illness; and

(4) 50 percent coinsurance on restorative dental services.

(f) Recipients eligible under subdivision 3, paragraph (a), shall include the following co-payments for services provided on or after January 1, 2009:

(1) \$25 for nonemergency visits to a hospital-based emergency room; and

(2) \$3 per brand-name drug prescription and \$1 per generic drug prescription, subject to a \$7 per month maximum for prescription drug co-payments. No co-payments shall apply to antipsychotic drugs when used for the treatment of mental illness.

(g) MS 2007 Supp [Expired]

(h) Effective January 1, 2009, co-payments shall be limited to one per day per provider for nonemergency visits to a hospital-based emergency room. Recipients of general assistance medical care are responsible for all co-payments in this subdivision. The general assistance medical care reimbursement to the provider shall be reduced by the amount of the co-payment, except that reimbursement for prescription drugs shall not be reduced once a recipient has reached the \$7 per

month maximum for prescription drug co-payments. The provider collects the co-payment from the recipient. Providers may not deny services to recipients who are unable to pay the co-payment.

(i) General assistance medical care reimbursement to fee-for-service providers and payments to managed care plans shall not be increased as a result of the removal of the co-payments effective January 1, 2009.

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

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

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

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

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

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

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

(q) A hospital receiving a reduced payment as a result of this section may apply the unpaid balance toward satisfaction of the hospital's bad debts.

(r) Fee-for-service payments for nonpreventive visits shall be reduced by \$3 for services provided on or after January 1, 2006. For purposes of this subdivision, a visit means an episode of service which is required because of a recipient's symptoms, diagnosis, or established illness, and which is delivered in an ambulatory setting by a physician or physician ancillary, chiropractor, podiatrist, advance practice nurse, audiologist, optician, or optometrist.

(s) Payments to managed care plans shall not be increased as a result of the removal of the \$3 nonpreventive visit co-payment effective January 1, 2006.

(t) Payments for mental health services added as covered benefits after December 31, 2007, are not subject to the reductions in paragraphs (l), (n), (o), and (p).

(u) Effective for services provided on or after July 1, 2009, total payment rates for basic care services shall be reduced by three percent, in accordance with section 256B.766. Payments made to managed care plans shall be reduced for services provided on or after October 1, 2009, to reflect this reduction.

(v) Effective for services provided on or after July 1, 2009, payment rates for physician and

professional services shall be reduced as described under section 256B.76, subdivision 1, paragraph (c). Payments made to managed care plans shall be reduced for services provided on or after October 1, 2009, to reflect this reduction.

Sec. 54. Minnesota Statutes 2008, section 256L.03, is amended by adding a subdivision to read:

Subd. 3b. **Chiropractic services.** MinnesotaCare covers the following chiropractic services: medically necessary exams, manual manipulation of the spine, and x-rays.

**EFFECTIVE DATE.** This section is effective January 1, 2010.

Sec. 55. Minnesota Statutes 2008, section 256L.04, subdivision 1, is amended to read:

Subdivision 1. **Families with children.** (a) Families with children with family income equal to or less than 275 percent of the federal poverty guidelines for the applicable family size shall be eligible for MinnesotaCare according to this section. All other provisions of sections 256L.01 to 256L.18, including the insurance-related barriers to enrollment under section 256L.07, shall apply unless otherwise specified.

(b) Parents who enroll in the MinnesotaCare program must also enroll their children, if the children are eligible. Children may be enrolled separately without enrollment by parents. However, if one parent in the household enrolls, both parents must enroll, unless other insurance is available. If one child from a family is enrolled, all children must be enrolled, unless other insurance is available. If one spouse in a household enrolls, the other spouse in the household must also enroll, unless other insurance is available. Families cannot choose to enroll only certain uninsured members.

(c) Beginning October 1, 2003, the dependent sibling definition no longer applies to the MinnesotaCare program. These persons are no longer counted in the parental household and may apply as a separate household.

(d) Beginning July 1, 2003, or upon federal approval, whichever is later, parents are not eligible for MinnesotaCare if their gross income exceeds \$57,500.

(e) Children formerly enrolled in medical assistance and automatically deemed eligible for MinnesotaCare according to section 256B.057, subdivision 2c, are exempt from the requirements of this section until renewal.

(f) Children deemed eligible for MinnesotaCare under section 256L.07, subdivision 8, are exempt from the eligibility requirements of this subdivision.

Sec. 56. Minnesota Statutes 2008, section 256L.04, is amended by adding a subdivision to read:

Subd. 1b. **Children with family income greater than 275 percent of federal poverty guidelines.** Children with family income greater than 275 percent of federal poverty guidelines for the applicable family size shall be eligible for MinnesotaCare. All other provisions of sections 256L.01 to 256L.18, including the insurance-related barriers to enrollment under section 256L.07, shall apply unless otherwise specified.

**EFFECTIVE DATE.** This section is effective July 1, 2009, or upon federal approval, whichever is later.

Sec. 57. Minnesota Statutes 2008, section 256L.04, subdivision 7a, is amended to read:

Subd. 7a. **Ineligibility.** ~~Applicants~~ Adults whose income is greater than the limits established under this section may not enroll in the MinnesotaCare program.

**EFFECTIVE DATE.** This section is effective July 1, 2009, or upon federal approval, whichever is later.

Sec. 58. Minnesota Statutes 2008, section 256L.04, subdivision 10a, is amended to read:

Subd. 10a. **Sponsor's income and resources deemed available; documentation.** When determining eligibility for any federal or state benefits under sections 256L.01 to 256L.18, the income and resources of all noncitizens whose sponsor signed an affidavit of support as defined under United States Code, title 8, section 1183a, shall be deemed to include their sponsors' income and resources as defined in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, title IV, Public Law 104-193, sections 421 and 422, and subsequently set out in federal rules. To be eligible for the program, noncitizens must provide documentation of their immigration status. Beginning July 1, 2010, or upon federal approval, whichever is later, sponsor deeming does not apply to pregnant women and children who are qualified noncitizens, as described in section 256B.06, subdivision 4, paragraph (b).

**EFFECTIVE DATE.** This section is effective July 1, 2010, or upon federal approval, whichever is later. The commissioner shall notify the revisor of statutes when federal approval has been obtained.

Sec. 59. Minnesota Statutes 2008, section 256L.05, subdivision 1, is amended to read:

Subdivision 1. **Application assistance and information availability.** (a) Applications and application assistance must be made available at provider offices, local human services agencies, school districts, public and private elementary schools in which 25 percent or more of the students receive free or reduced price lunches, community health offices, Women, Infants and Children (WIC) program sites, Head Start program sites, public housing councils, crisis nurseries, child care centers, early childhood education and preschool program sites, legal aid offices, and libraries. These sites may accept applications and forward the forms to the commissioner or local county human services agencies that choose to participate as an enrollment site. Otherwise, applicants may apply directly to the commissioner or to participating local county human services agencies.

(b) Application assistance must be available for applicants choosing to file an online application.

Sec. 60. Minnesota Statutes 2008, section 256L.05, is amended by adding a subdivision to read:

Subd. 1c. **Open enrollment and streamlined application and enrollment process.** (a) The commissioner and local agencies working in partnership must develop a streamlined and efficient application and enrollment process for medical assistance and MinnesotaCare enrollees that meets the criteria specified in this subdivision.

(b) The commissioners of human services and education shall provide recommendations to the legislature by January 15, 2010, on the creation of an open enrollment process for medical assistance and MinnesotaCare that is coordinated with the public education system. The recommendations must:

(1) be developed in consultation with medical assistance and MinnesotaCare enrollees and representatives from organizations that advocate on behalf of children and families, low-income

persons and minority populations, counties, school administrators and nurses, health plans, and health care providers;

(2) be based on enrollment and renewal procedures best practices, including express lane eligibility as required under subdivision 1d;

(3) simplify the enrollment and renewal processes wherever possible; and

(4) establish a process:

(i) to disseminate information on medical assistance and MinnesotaCare to all children in the public education system, including prekindergarten programs; and

(ii) for the commissioner of human services to enroll children and other household members who are eligible.

The commissioner of human services in coordination with the commissioner of education shall implement an open enrollment process by August 1, 2010, to be effective beginning with the 2010-2011 school year.

(c) The commissioner and local agencies shall develop an online application process for medical assistance and MinnesotaCare.

(d) The commissioner shall develop an application that is easily understandable and does not exceed four pages in length.

(e) The commissioner of human services shall present to the legislature, by January 15, 2010, an implementation plan for the open enrollment period and online application process.

**EFFECTIVE DATE.** This section is effective July 1, 2010, or upon federal approval, which must be requested by the commissioner, whichever is later.

Sec. 61. Minnesota Statutes 2008, section 256L.05, subdivision 3, is amended to read:

Subd. 3. **Effective date of coverage.** (a) The effective date of coverage is the first day of the month following the month in which eligibility is approved and the first premium payment has been received. As provided in section 256B.057, coverage for newborns is automatic from the date of birth and must be coordinated with other health coverage. The effective date of coverage for eligible newly adoptive children added to a family receiving covered health services is the month of placement. The effective date of coverage for other new members added to the family is the first day of the month following the month in which the change is reported. All eligibility criteria must be met by the family at the time the new family member is added. The income of the new family member is included with the family's gross income and the adjusted premium begins in the month the new family member is added.

(b) The initial premium must be received by the last working day of the month for coverage to begin the first day of the following month.

(c) Benefits are not available until the day following discharge if an enrollee is hospitalized on the first day of coverage.

(d) Notwithstanding any other law to the contrary, benefits under sections 256L.01 to 256L.18

are secondary to a plan of insurance or benefit program under which an eligible person may have coverage and the commissioner shall use cost avoidance techniques to ensure coordination of any other health coverage for eligible persons. The commissioner shall identify eligible persons who may have coverage or benefits under other plans of insurance or who become eligible for medical assistance.

(e) The effective date of coverage for single adults and households with no children formerly enrolled in general assistance medical care and enrolled in MinnesotaCare according to section 256D.03, subdivision 3, is the first day of the month following the last day of general assistance medical care coverage.

(f) The effective date of coverage for children eligible under section 256L.07, subdivision 8, is the first day of the month following the date of termination from foster care or release from a juvenile residential correctional facility.

**EFFECTIVE DATE.** This section is effective July 1, 2009, or upon federal approval, whichever is later.

Sec. 62. Minnesota Statutes 2008, section 256L.05, subdivision 3a, is amended to read:

Subd. 3a. **Renewal of eligibility.** (a) Beginning July 1, 2007, an enrollee's eligibility must be renewed every 12 months. The 12-month period begins in the month after the month the application is approved.

(b) Each new period of eligibility must take into account any changes in circumstances that impact eligibility and premium amount. An enrollee must provide all the information needed to redetermine eligibility by the first day of the month that ends the eligibility period. If there is no change in circumstances, the enrollee may renew eligibility at designated locations that include community clinics and health care providers' offices. The designated sites shall forward the renewal forms to the commissioner. The commissioner may establish criteria and timelines for sites to forward applications to the commissioner or county agencies. The premium for the new period of eligibility must be received as provided in section 256L.06 in order for eligibility to continue.

(c) For single adults and households with no children formerly enrolled in general assistance medical care and enrolled in MinnesotaCare according to section 256D.03, subdivision 3, the first period of eligibility begins the month the enrollee submitted the application or renewal for general assistance medical care.

(d) ~~An enrollee~~ Notwithstanding paragraph (e), an enrollee who fails to submit renewal forms and related documentation necessary for verification of continued eligibility in a timely manner shall remain eligible for one additional month beyond the end of the current eligibility period before being disenrolled. The enrollee remains responsible for MinnesotaCare premiums for the additional month.

(e) Children in families with family income equal to or below 275 percent of federal poverty guidelines who fail to submit renewal forms and related documentation necessary for verification of continued eligibility in a timely manner shall remain eligible for the program. The commissioner shall use the means described in subdivision 2 or any other means available to verify family income. If the commissioner determines that there has been a change in income in which premium payment is required to remain enrolled, the commissioner shall notify the family of the premium payment,

and that the children will be disenrolled if the premium payment is not received effective the first day of the calendar month following the calendar month for which the premium is due.

(f) For children enrolled in MinnesotaCare under section 256L.07, subdivision 8, the first period of renewal begins the month the enrollee turns 21 years of age.

**EFFECTIVE DATE.** This section is effective July 1, 2009, or upon federal approval, whichever is later.

Sec. 63. Minnesota Statutes 2008, section 256L.07, subdivision 1, is amended to read:

Subdivision 1. **General requirements.** (a) Children enrolled in the original children's health plan as of September 30, 1992, children who enrolled in the MinnesotaCare program after September 30, 1992, pursuant to Laws 1992, chapter 549, article 4, section 17, and children who have family gross incomes that are equal to or less than ~~150~~ 200 percent of the federal poverty guidelines are eligible without meeting the requirements of subdivision 2 and the four-month requirement in subdivision 3, as long as they maintain continuous coverage in the MinnesotaCare program or medical assistance. ~~Children who apply for MinnesotaCare on or after the implementation date of the employer-subsidized health coverage program as described in Laws 1998, chapter 407, article 5, section 45, who have family gross incomes that are equal to or less than 150 percent of the federal poverty guidelines, must meet the requirements of subdivision 2 to be eligible for MinnesotaCare.~~

~~Families~~ Parents enrolled in MinnesotaCare under section 256L.04, subdivision 1, whose income increases above 275 percent of the federal poverty guidelines, are no longer eligible for the program and shall be disenrolled by the commissioner. Beginning January 1, 2008, individuals enrolled in MinnesotaCare under section 256L.04, subdivision 7, whose income increases above 200 percent of the federal poverty guidelines or 250 percent of the federal poverty guidelines on or after July 1, 2009, are no longer eligible for the program and shall be disenrolled by the commissioner. For persons disenrolled under this subdivision, MinnesotaCare coverage terminates the last day of the calendar month following the month in which the commissioner determines that the income of a family or individual exceeds program income limits.

~~(b) Notwithstanding paragraph (a),~~ Children may remain enrolled in MinnesotaCare if ~~ten~~ percent of their gross individual or gross family income as defined in section 256L.01, subdivision 4, is less than the annual premium for a policy with a \$500 deductible available through the Minnesota Comprehensive Health Association. ~~Children who are no longer eligible for MinnesotaCare under this clause shall be given a 12-month notice period from the date that ineligibility is determined before disenrollment greater than 275 percent of federal poverty guidelines.~~ The premium for children remaining eligible under this ~~clause~~ paragraph shall be the maximum premium determined under section 256L.15, subdivision 2, paragraph (b).

~~(c) Notwithstanding paragraphs~~ paragraph (a) and (b), parents are not eligible for MinnesotaCare if gross household income exceeds \$57,500 for the 12-month period of eligibility.

**EFFECTIVE DATE.** This section is effective July 1, 2009, or upon federal approval, whichever is later.

Sec. 64. Minnesota Statutes 2008, section 256L.07, subdivision 2, is amended to read:

Subd. 2. **Must not have access to employer-subsidized coverage.** (a) To be eligible, a family

or individual must not have access to subsidized health coverage through an employer and must not have had access to employer-subsidized coverage through a current employer for 18 months prior to application or reapplication. A family or individual whose employer-subsidized coverage is lost due to an employer terminating health care coverage as an employee benefit during the previous 18 months is not eligible.

(b) This subdivision does not apply to a family or individual who was enrolled in MinnesotaCare within six months or less of reapplication and who no longer has employer-subsidized coverage due to the employer terminating health care coverage as an employee benefit. This subdivision does not apply to children with family gross incomes that are equal to or less than 200 percent of federal poverty guidelines.

(c) For purposes of this requirement, subsidized health coverage means health coverage for which the employer pays at least 50 percent of the cost of coverage for the employee or dependent, or a higher percentage as specified by the commissioner. Children are eligible for employer-subsidized coverage through either parent, including the noncustodial parent. The commissioner must treat employer contributions to Internal Revenue Code Section 125 plans and any other employer benefits intended to pay health care costs as qualified employer subsidies toward the cost of health coverage for employees for purposes of this subdivision.

**EFFECTIVE DATE.** This section is effective July 1, 2009, or upon federal approval, whichever is later.

Sec. 65. Minnesota Statutes 2008, section 256L.07, subdivision 3, is amended to read:

Subd. 3. **Other health coverage.** (a) Families and individuals enrolled in the MinnesotaCare program must have no health coverage while enrolled ~~or for at least four months prior to application and renewal.~~ Children with family gross incomes equal to or greater than 200 percent of federal poverty guidelines, and adults, must have had no health coverage for at least four months prior to application and renewal. Children enrolled in the original children's health plan and children in families with income equal to or less than ~~150~~ 200 percent of the federal poverty guidelines, who have other health insurance, are eligible if the coverage:

- (1) lacks two or more of the following:
  - (i) basic hospital insurance;
  - (ii) medical-surgical insurance;
  - (iii) prescription drug coverage;
  - (iv) dental coverage; or
  - (v) vision coverage;
- (2) requires a deductible of \$100 or more per person per year; or
- (3) lacks coverage because the child has exceeded the maximum coverage for a particular diagnosis or the policy excludes a particular diagnosis.

The commissioner may change this eligibility criterion for sliding scale premiums in order to remain within the limits of available appropriations. The requirement of no health coverage does



not apply to newborns.

(b) Medical assistance, general assistance medical care, and the Civilian Health and Medical Program of the Uniformed Service, CHAMPUS, or other coverage provided under United States Code, title 10, subtitle A, part II, chapter 55, are not considered insurance or health coverage for purposes of the four-month requirement described in this subdivision.

(c) For purposes of this subdivision, an applicant or enrollee who is entitled to Medicare Part A or enrolled in Medicare Part B coverage under title XVIII of the Social Security Act, United States Code, title 42, sections 1395c to 1395w-152, is considered to have health coverage. An applicant or enrollee who is entitled to premium-free Medicare Part A may not refuse to apply for or enroll in Medicare coverage to establish eligibility for MinnesotaCare.

(d) Applicants who were recipients of medical assistance or general assistance medical care within one month of application must meet the provisions of this subdivision and subdivision 2.

(e) Cost-effective health insurance that was paid for by medical assistance is not considered health coverage for purposes of the four-month requirement under this section, except if the insurance continued after medical assistance no longer considered it cost-effective or after medical assistance closed.

**EFFECTIVE DATE.** This section is effective July 1, 2009, or upon federal approval, whichever is later.

Sec. 66. Minnesota Statutes 2008, section 256L.07, is amended by adding a subdivision to read:

**Subd. 8. Automatic eligibility for certain children.** Any child who was residing in foster care or a juvenile residential correctional facility on the child's 18th birthday is automatically deemed eligible for MinnesotaCare upon termination or release until the child reaches the age of 21, and is exempt from the requirements of this section and section 256L.15. To be enrolled under this section, a child must complete an initial application for MinnesotaCare. The commissioner shall contact individuals enrolled under this section annually to ensure the individual continues to reside in the state and is interested in continuing MinnesotaCare coverage.

**EFFECTIVE DATE.** This section is effective July 1, 2009, or upon federal approval, whichever is later.

Sec. 67. Minnesota Statutes 2008, section 256L.11, subdivision 1, is amended to read:

Subdivision 1. **Medical assistance rate to be used.** (a) Payment to providers under sections 256L.01 to 256L.11 shall be at the same rates and conditions established for medical assistance, except as provided in subdivisions 2 to 6.

(b) Effective for services provided on or after July 1, 2009, total payments for basic care services shall be reduced by three percent, in accordance with section 256B.766. Payments made to managed care plans shall be reduced for services provided on or after October 1, 2009, to reflect this reduction.

Sec. 68. Minnesota Statutes 2008, section 256L.15, subdivision 2, is amended to read:

Subd. 2. **Sliding fee scale; monthly gross individual or family income.** (a) The commissioner shall establish a sliding fee scale to determine the percentage of monthly gross individual or family income that households at different income levels must pay to obtain coverage through

the MinnesotaCare program. The sliding fee scale must be based on the enrollee's monthly gross individual or family income. The sliding fee scale must contain separate tables based on enrollment of one, two, or three or more persons. Until June 30, 2009, the sliding fee scale begins with a premium of 1.5 percent of monthly gross individual or family income for individuals or families with incomes below the limits for the medical assistance program for families and children in effect on January 1, 1999, and proceeds through the following evenly spaced steps: 1.8, 2.3, 3.1, 3.8, 4.8, 5.9, 7.4, and 8.8 percent. These percentages are matched to evenly spaced income steps ranging from the medical assistance income limit for families and children in effect on January 1, 1999, to 275 percent of the federal poverty guidelines for the applicable family size, up to a family size of five. The sliding fee scale for a family of five must be used for families of more than five. The sliding fee scale and percentages are not subject to the provisions of chapter 14. If a family or individual reports increased income after enrollment, premiums shall be adjusted at the time the change in income is reported.

(b) Children in families whose gross income is above 275 percent of the federal poverty guidelines shall pay the maximum premium. The maximum premium is defined as a base charge for one, two, or three or more enrollees so that if all MinnesotaCare cases paid the maximum premium, the total revenue would equal the total cost of MinnesotaCare medical coverage and administration. In this calculation, administrative costs shall be assumed to equal ten percent of the total. The costs of medical coverage for pregnant women and children under age two and the enrollees in these groups shall be excluded from the total. The maximum premium for two enrollees shall be twice the maximum premium for one, and the maximum premium for three or more enrollees shall be three times the maximum premium for one.

(c) Beginning July 1, 2009, MinnesotaCare enrollees shall pay premiums according to the premium scale specified in paragraph (d) with the exception that children in families with income at or below ~~150~~ 200 percent of the federal poverty guidelines shall pay ~~a monthly premium of \$4~~ no premiums. For purposes of paragraph (d), "minimum" means a monthly premium of \$4.

(d) The following premium scale is established for individuals and families with gross family incomes of 300 percent of the federal poverty guidelines or less:

<b>Federal Poverty Guideline Range</b>	<b>Percent of Average Gross Monthly Income</b>
0-45%	minimum
46-54%	1.1%
55-81%	1.6%
82-109%	2.2%
110-136%	2.9%
137-164%	3.6%
165-191%	4.6%
192-219%	5.6%
220-248%	6.5%
249-274%	7.2%
275-300%	8.0%

**EFFECTIVE DATE.** This section is effective July 1, 2009, or upon federal approval, whichever is later.

Sec. 69. Minnesota Statutes 2008, section 256L.15, subdivision 3, is amended to read:

Subd. 3. **Exceptions to sliding scale.** Children in families with income at or below ~~150~~ 200 percent of the federal poverty guidelines shall pay a no monthly premium of \$4 premiums.

**EFFECTIVE DATE.** This section is effective July 1, 2009, or upon federal approval, whichever is later.

Sec. 70. Minnesota Statutes 2008, section 256L.17, subdivision 3, is amended to read:

Subd. 3. **Documentation.** (a) The commissioner of human services shall require individuals and families, at the time of application or renewal, to indicate on a ~~checkoff~~ form developed by the commissioner whether they satisfy the MinnesotaCare asset requirement.

(b) The commissioner may require individuals and families to provide any information the commissioner determines necessary to verify compliance with the asset requirement, if the commissioner determines that there is reason to believe that an individual or family has assets that exceed the program limit.

Sec. 71. Minnesota Statutes 2008, section 256L.17, subdivision 5, is amended to read:

Subd. 5. **Exemption.** This section does not apply to pregnant women or children. For purposes of this subdivision, a woman is considered pregnant for 60 days postpartum.

Sec. 72. Minnesota Statutes 2008, section 501B.89, is amended by adding a subdivision to read:

Subd. 4. **Annual filing requirement for supplemental needs trusts.** (a) A trustee of a trust under subdivision 3 and United States Code, title 42, section 1396p(d)(4)(A) or (C), shall submit to the commissioner of human services, at the time of a beneficiary's request for medical assistance, the following information about the trust:

(1) a copy of the trust instrument; and

(2) an inventory of the beneficiary's trust account assets and the value of those assets.

(b) A trustee of a trust under subdivision 3 and United States Code, title 42, section 1396p(d)(4)(A) or (C), shall submit an accounting of the beneficiary's trust account to the commissioner of human services at least annually until the trust, or the beneficiary's interest in the trust, terminates. Accountings are due on the anniversary of the execution date of the trust unless another annual date is established by the terms of the trust. The accounting must include the following information for the accounting period:

(1) an inventory of trust assets and the value of those assets at the beginning of the accounting period;

(2) additions to the trust during the accounting period and the source of those additions;

(3) itemized distributions from the trust during the accounting period, including the purpose of the distributions and to whom the distributions were made;

(4) an inventory of trust assets and the value of those assets at the end of the accounting period; and

(5) changes to the trust instrument during the accounting period.

(c) For the purpose of paragraph (b), an accounting period is 12 months unless an accounting period of a different length is permitted by the commissioner.

**EFFECTIVE DATE.** This section is effective for applications for medical assistance and renewals of medical assistance submitted on or after July 1, 2009.

Sec. 73. Minnesota Statutes 2008, section 519.05, is amended to read:

**519.05 LIABILITY OF HUSBAND AND WIFE.**

(a) A spouse is not liable to a creditor for any debts of the other spouse. Where husband and wife are living together, they shall be jointly and severally liable for necessary medical services that have been furnished to either spouse, including any claims arising under section 246.53, 256B.15, 256D.16, or 261.04, and necessary household articles and supplies furnished to and used by the family. Notwithstanding this paragraph, in a proceeding under chapter 518 the court may apportion such debt between the spouses.

(b) Either spouse may close a credit card account or other unsecured consumer line of credit on which both spouses are contractually liable, by giving written notice to the creditor.

Sec. 74. Laws 2003, First Special Session chapter 14, article 13C, section 2, subdivision 1, as amended by Laws 2004, chapter 272, article 2, section 2, is amended to read:

Subdivision 1. **Total Appropriation** **\$ 3,848,049,000 \$ 4,135,780,000**

Summary by Fund		
General	3,301,811,000	3,561,055,000
State Government		
Special Revenue	534,000	534,000
Health Care Access	273,723,000	302,272,000
Federal TANF	270,425,000	270,363,000
Lottery Cash Flow	1,556,000	1,556,000

**Federal Contingency Appropriation.** (a) Federal Medicaid funds made available under title IV of the federal Jobs and Growth Tax Relief Reconciliation Act of 2003 are appropriated to the commissioner of human services for use in the state's medical assistance and MinnesotaCare programs. The commissioners of human services and finance shall report to the legislative advisory committee on the additional federal Medicaid

matching funds that will be available to the state.

(b) Because of the availability of these funds, the following policies shall become effective:

(1) medical assistance and MinnesotaCare eligibility and local financial participation changes provided for in this act may be implemented prior to September 2, 2003, or may be delayed as necessary to maximize the use of federal funds received under title IV of the Jobs and Growth Tax Relief Reconciliation Act of 2003;

(2) the aggregate cap on the services identified in Minnesota Statutes, section 256L.035, paragraph (a), clause (3), shall be increased from \$2,000 to \$5,000. This increase shall expire at the end of fiscal year 2007. Funds may be transferred from the general fund to the health care access fund as necessary to implement this provision; and

(3) the following payment shifts shall not be implemented:

(i) MFIP payment shift found in subdivision 11;

(ii) the county payment shift found in subdivision 1; and

(iii) the delay in medical assistance and general assistance medical care fee-for-service payments found in subdivision 6.

(c) Notwithstanding section 14, paragraphs (a) and (b) shall expire June 30, 2007.

**Receipts for Systems Projects.** Appropriations and federal receipts for information system projects for MAXIS, PRISM, MMIS, and SSIS must be deposited in the state system account authorized in Minnesota Statutes, section 256.014. Money appropriated for computer projects approved by the Minnesota office of technology, funded by the legislature, and approved

by the commissioner of finance may be transferred from one project to another and from development to operations as the commissioner of human services considers necessary. Any unexpended balance in the appropriation for these projects does not cancel but is available for ongoing development and operations.

**Gifts.** Notwithstanding Minnesota Statutes, chapter 7, the commissioner may accept on behalf of the state additional funding from sources other than state funds for the purpose of financing the cost of assistance program grants or nongrant administration. All additional funding is appropriated to the commissioner for use as designated by the grantor of funding.

**Systems Continuity.** In the event of disruption of technical systems or computer operations, the commissioner may use available grant appropriations to ensure continuity of payments for maintaining the health, safety, and well-being of clients served by programs administered by the department of human services. Grant funds must be used in a manner consistent with the original intent of the appropriation.

**Nonfederal Share Transfers.** The nonfederal share of activities for which federal administrative reimbursement is appropriated to the commissioner may be transferred to the special revenue fund.

**TANF Funds Appropriated to Other Entities.** Any expenditures from the TANF block grant shall be expended in accordance with the requirements and limitations of part A of title IV of the Social Security Act, as amended, and any other applicable federal requirement or limitation. Prior to any expenditure of these funds, the commissioner shall assure that funds are expended in compliance with the requirements and limitations of federal law and that any reporting requirements of federal law are met. It shall be the responsibility

of any entity to which these funds are appropriated to implement a memorandum of understanding with the commissioner that provides the necessary assurance of compliance prior to any expenditure of funds. The commissioner shall receipt TANF funds appropriated to other state agencies and coordinate all related interagency accounting transactions necessary to implement these appropriations. Unexpended TANF funds appropriated to any state, local, or nonprofit entity cancel at the end of the state fiscal year unless appropriating language permits otherwise.

**TANF Funds Transferred to Other Federal Grants.** The commissioner must authorize transfers from TANF to other federal block grants so that funds are available to meet the annual expenditure needs as appropriated. Transfers may be authorized prior to the expenditure year with the agreement of the receiving entity. Transferred funds must be expended in the year for which the funds were appropriated unless appropriation language permits otherwise. In accelerating transfer authorizations, the commissioner must aim to preserve the future potential transfer capacity from TANF to other block grants.

**TANF Maintenance of Effort.** (a) In order to meet the basic maintenance of effort (MOE) requirements of the TANF block grant specified under Code of Federal Regulations, title 45, section 263.1, the commissioner may only report nonfederal money expended for allowable activities listed in the following clauses as TANF/MOE expenditures:

(1) MFIP cash, diversionary work program, and food assistance benefits under Minnesota Statutes, chapter 256J;

(2) the child care assistance programs under Minnesota Statutes, sections 119B.03 and 119B.05, and county child care administrative costs under Minnesota Statutes, section 119B.15;

(3) state and county MFIP administrative costs under Minnesota Statutes, chapters 256J and 256K;

(4) state, county, and tribal MFIP employment services under Minnesota Statutes, chapters 256J and 256K;

(5) expenditures made on behalf of noncitizen MFIP recipients who qualify for the medical assistance without federal financial participation program under Minnesota Statutes, section 256B.06, subdivision 4, paragraphs (d), (e), and (j); and

(6) qualifying working family credit expenditures under Minnesota Statutes, section 290.0671.

(b) The commissioner shall ensure that sufficient qualified nonfederal expenditures are made each year to meet the state's TANF/MOE requirements. For the activities listed in paragraph (a), clauses (2) to (6), the commissioner may only report expenditures that are excluded from the definition of assistance under Code of Federal Regulations, title 45, section 260.31.

(c) By August 31 of each year, the commissioner shall make a preliminary calculation to determine the likelihood that the state will meet its annual federal work participation requirement under Code of Federal Regulations, title 45, sections 261.21 and 261.23, after adjustment for any caseload reduction credit under Code of Federal Regulations, title 45, section 261.41. If the commissioner determines that the state will meet its federal work participation rate for the federal fiscal year ending that September, the commissioner may reduce the expenditure under paragraph (a), clause (1), to the extent allowed under Code of Federal Regulations, title 45, section 263.1(a)(2).

(d) For fiscal years beginning with state fiscal year 2003, the commissioner shall assure that the maintenance of effort used



by the commissioner of finance for the February and November forecasts required under Minnesota Statutes, section 16A.103, contains expenditures under paragraph (a), clause (1), equal to at least 25 percent of the total required under Code of Federal Regulations, title 45, section 263.1.

(e) If nonfederal expenditures for the programs and purposes listed in paragraph (a) are insufficient to meet the state's TANF/MOE requirements, the commissioner shall recommend additional allowable sources of nonfederal expenditures to the legislature, if the legislature is or will be in session to take action to specify additional sources of nonfederal expenditures for TANF/MOE before a federal penalty is imposed. The commissioner shall otherwise provide notice to the legislative commission on planning and fiscal policy under paragraph (g).

(f) If the commissioner uses authority granted under section 11, or similar authority granted by a subsequent legislature, to meet the state's TANF/MOE requirement in a reporting period, the commissioner shall inform the chairs of the appropriate legislative committees about all transfers made under that authority for this purpose.

(g) If the commissioner determines that nonfederal expenditures under paragraph (a) are insufficient to meet TANF/MOE expenditure requirements, and if the legislature is not or will not be in session to take timely action to avoid a federal penalty, the commissioner may report nonfederal expenditures from other allowable sources as TANF/MOE expenditures after the requirements of this paragraph are met. The commissioner may report nonfederal expenditures in addition to those specified under paragraph (a) as nonfederal TANF/MOE expenditures, but only ten days after the commissioner of finance has first submitted the commissioner's

recommendations for additional allowable sources of nonfederal TANF/MOE expenditures to the members of the legislative commission on planning and fiscal policy for their review.

(h) The commissioner of finance shall not incorporate any changes in federal TANF expenditures or nonfederal expenditures for TANF/MOE that may result from reporting additional allowable sources of nonfederal TANF/MOE expenditures under the interim procedures in paragraph (g) into the February or November forecasts required under Minnesota Statutes, section 16A.103, unless the commissioner of finance has approved the additional sources of expenditures under paragraph (g).

(i) Minnesota Statutes, section 256.011, subdivision 3, which requires that federal grants or aids secured or obtained under that subdivision be used to reduce any direct appropriations provided by law, do not apply if the grants or aids are federal TANF funds.

(j) Notwithstanding section 14, paragraph (a), clauses (1) to (6), and paragraphs (b) to (j) expire June 30, 2007.

**Working Family Credit Expenditures as TANF MOE.** The commissioner may claim as TANF maintenance of effort up to the following amounts of working family credit expenditures for the following fiscal years:

- (1) fiscal year 2004, \$7,013,000;
- (2) fiscal year 2005, \$25,133,000;
- (3) fiscal year 2006, \$6,942,000; and
- (4) fiscal year 2007, \$6,707,000.

**Fiscal Year 2003 Appropriations Carryforward.** Effective the day following final enactment, notwithstanding Minnesota Statutes, section 16A.28, or any other law to the contrary, state agencies and constitutional offices may carry forward unexpended

and unencumbered nongrant operating balances from fiscal year 2003 general fund appropriations into fiscal year 2004 to offset general budget reductions.

**Transfer of Grant Balances.** Effective the day following final enactment, the commissioner of human services, with the approval of the commissioner of finance and after notification of the chair of the senate health, human services and corrections budget division and the chair of the house of representatives health and human services finance committee, may transfer unencumbered appropriation balances for the biennium ending June 30, 2003, in fiscal year 2003 among the MFIP, MFIP child care assistance under Minnesota Statutes, section 119B.05, general assistance, general assistance medical care, medical assistance, Minnesota supplemental aid, and group residential housing programs, and the entitlement portion of the chemical dependency consolidated treatment fund, and between fiscal years of the biennium.

**TANF Appropriation Cancellation.** Notwithstanding the provisions of Laws 2000, chapter 488, article 1, section 16, any prior appropriations of TANF funds to the department of trade and economic development or to the job skills partnership board or any transfers of TANF funds from another agency to the department of trade and economic development or to the job skills partnership board are not available until expended, and if unobligated as of June 30, 2003, these appropriations or transfers shall cancel to the TANF fund.

**Shift County Payment.** The commissioner shall make up to 100 percent of the calendar year 2005 payments to counties for developmental disabilities semi-independent living services grants, developmental disabilities family support grants, and adult mental health grants from fiscal year 2006 appropriations. This is a onetime payment shift. Calendar year 2006 and future payments

for these grants are not affected by this shift.  
This provision expires June 30, 2006.

**Capitation Rate Increase.** Of the health care access fund appropriations to the University of Minnesota in the higher education omnibus appropriation bill, ~~\$2,157,000 in fiscal year 2004 and \$2,157,000 in fiscal year 2005~~ are to be used to increase the capitation payments under for fiscal years beginning July 1, 2003, and thereafter, \$2,157,000 each year shall be transferred to the commissioner for purposes of Minnesota Statutes, section 256B.69. Notwithstanding the provisions of section 14, this provision shall not expire.

**Sec. 75. ASTHMA COVERAGE DEMONSTRATION PROJECT.**

**Subdivision 1. Medical assistance coverage.** The commissioner of human services shall establish a demonstration project to provide additional medical assistance coverage for a maximum of 200 American Indian children in Minneapolis, St. Paul, and Duluth who are burdened by health disparities associated with the cumulative health impact of toxic environmental exposures. Under this demonstration project, the additional medical assistance coverage for this population must include, but is not limited to, the following durable medical equipment: high efficiency particulate air (HEPA) cleaners, HEPA vacuum cleaners, allergy bed and pillow encasements, high filtration filters for forced air gas furnaces, and dehumidifiers with medical tubing to connect the appliance to a floor drain, if the listed item is medically necessary to reduce asthma symptoms. Provision of these items must be preceded by a home environmental assessment for triggers of asthma and in-home asthma education on the proper medical management of asthma by a Certified Asthma Educator or public health nurse with asthma management training.

**Subd. 2. Report.** (a) Two years following implementation of the medical assistance coverage demonstration project established under this section, the commissioner of health, in collaboration with the Department of Human Services, must report to the legislature on the number of asthma-related hospital admittances that occurred in the population of children described in subdivision 1, before and after implementation of the demonstration project, and whether the demonstration project had an impact on asthma-related school absenteeism for this population of children.

(b) The commissioner of health must seek nonstate funding to conduct this report. The reporting requirement is contingent upon the availability of nonstate funds.

**Sec. 76. CLAIMS AND UTILIZATION DATA.**

The commissioner of human services, in consultation with the Health Services Policy Committee, shall develop and provide to the legislature by December 15, 2009, a methodology and any draft legislation necessary to allow for the release, upon request, of summary data as defined in Minnesota Statutes, section 13.02, subdivision 19, on claims and utilization for medical assistance, general assistance medical care, and MinnesotaCare enrollees at no charge to the University of Minnesota Medical School, the Mayo Medical School, Northwestern Health Sciences University,

the Institute for Clinical Systems Improvement, and other research institutions, to conduct analyses of health care outcomes and treatment effectiveness, provided the research institutions do not release private or nonpublic data, or data for which dissemination is prohibited by law.

**Sec. 77. ADMINISTRATION OF PUBLICLY FUNDED HEALTH CARE PROGRAMS.**

(a) The commissioner of human services, in cooperation with the representatives of county human services agencies and with input from organizations that advocate on behalf of families and children, shall develop a plan that, to the extent feasible, seeks to align standards, income and asset methodologies, and procedures for families and children under medical assistance and MinnesotaCare. The commissioner shall evaluate the impact of different approaches toward alignment on the number of potential medical assistance and MinnesotaCare enrollees who are families and children, and on administrative, health care, and other costs to the state. The commissioner shall present recommendations to the legislative committees with jurisdiction over health care by September 15, 2010.

(b) The commissioner shall report in detail to the chair of the Health Care and Human Services Finance Committee of the house of representatives and to the chair of the Health and Human Services Division of the Finance Committee of the senate, prior to entering into any contracts involving counties for streamlined electronic enrollment and eligibility determinations for publicly funded health care programs, if such contracts would require payment from either the general fund, or the health care access fund, as described in Minnesota Statutes, sections 295.58 and 297I.05.

**Sec. 78. COBRA PREMIUM STATE SUBSIDY.**

Subdivision 1. Eligibility. (a) An individual and the individual's qualified beneficiaries shall be eligible for a state premium subsidy equal to 35 percent of the premiums the individual is required to pay for the continuation of health care coverage under COBRA, if the individual and the individual's qualified beneficiaries:

(1) are eligible for the 65 percent COBRA continuation premium subsidy for health care coverage under the American Recovery and Reinvestment Act of 2009;

(2) elect COBRA continuation health care coverage; and

(3) are eligible for medical assistance under Minnesota Statutes, chapter 256B; general assistance medical care under Minnesota Statutes, section 256D.03; or MinnesotaCare under Minnesota Statutes, chapter 256L, except for the four-month barrier requirement under Minnesota Statutes, section 256L.07, subdivision 3.

(b) Eligibility for the state subsidy shall continue for as long as the individual remains eligible for the COBRA premium subsidies provided under the American Recovery and Reinvestment Act of 2009.

Subd. 2. Subsidy. (a) The commissioner of human services shall pay 35 percent of the COBRA premiums that the individual must pay for continuation health care coverage for the individual and the individual's qualified beneficiaries, if the individual and the individual's qualified beneficiaries meet the requirements in subdivision 1.

(b) The state subsidy payment required under this section shall be made directly to the entity to which the individual is required to make COBRA premium payments.

(c) If any eligible individual has paid either the full amount of the COBRA premiums or 35 percent of the COBRA premiums before the date of enactment of this section, the individual is not entitled to a reimbursement of any premium paid.

Subd. 3. **Notification.** (a) All employers and plan administrators who are required to provide notice to all qualified individuals under the American Recovery and Reinvestment Act of 2009 must include information to qualified individuals residing in Minnesota of the availability of the state subsidy available under this section. The notice shall include the eligibility requirements for the state subsidy and that the individual must apply to the commissioner of human services to receive the state subsidy.

(b) The commissioner of employment and economic development must inform an applicant for unemployment benefits of the availability of a state subsidy if the applicant elects COBRA continuation coverage and the applicant meets the eligibility requirements of this section.

Subd. 4. **Exemption.** Any individual who receives a state subsidy under this section is exempt from the four-month requirement under Minnesota Statutes, section 256L.07, subdivision 3, if the individual or the individual's qualified beneficiaries apply for MinnesotaCare after the individual no longer receives COBRA continuation coverage.

Subd. 5. **Expiration.** This section expires December 31, 2010.

#### Sec. 79. **FEDERAL APPROVAL.**

The commissioner of human services shall resubmit for federal approval the elimination of depreciation for self-employed farmers in determining income eligibility for MinnesotaCare passed in Laws 2007, chapter 147, article 5, section 19.

#### Sec. 80. **REPEALER.**

Minnesota Statutes 2008, sections 256.962, subdivision 7; and 256L.17, subdivision 6, are repealed.

## **ARTICLE 6**

### **TECHNICAL**

Section 1. Minnesota Statutes 2008, section 144A.46, subdivision 1, is amended to read:

Subdivision 1. **License required.** (a) A home care provider may not operate in the state without a current license issued by the commissioner of health. A home care provider may hold a separate license for each class of home care licensure.

(b) Within ten days after receiving an application for a license, the commissioner shall acknowledge receipt of the application in writing. The acknowledgment must indicate whether the application appears to be complete or whether additional information is required before the application will be considered complete. Within 90 days after receiving a complete application, the commissioner shall either grant or deny the license. If an applicant is not granted or denied a license within 90 days after submitting a complete application, the license must be deemed granted. An applicant whose license has been deemed granted must provide written notice to the commissioner before providing a home care service.

(c) Each application for a home care provider license, or for a renewal of a license, shall be accompanied by a fee to be set by the commissioner under section 144.122.

(d) The commissioner of health, in consultation with the commissioner of human services, shall provide recommendations to the legislature by February 15, 2009, for provider standards for personal care assistant services as described in section ~~256B.0655~~ 256B.0659.

Sec. 2. Minnesota Statutes 2008, section 176.011, subdivision 9, is amended to read:

Subd. 9. **Employee.** "Employee" means any person who performs services for another for hire including the following:

(1) an alien;

(2) a minor;

(3) a sheriff, deputy sheriff, police officer, firefighter, county highway engineer, and peace officer while engaged in the enforcement of peace or in the pursuit or capture of a person charged with or suspected of crime;

(4) a person requested or commanded to aid an officer in arresting or retaking a person who has escaped from lawful custody, or in executing legal process, in which cases, for purposes of calculating compensation under this chapter, the daily wage of the person shall be the prevailing wage for similar services performed by paid employees;

(5) a county assessor;

(6) an elected or appointed official of the state, or of a county, city, town, school district, or governmental subdivision in the state. An officer of a political subdivision elected or appointed for a regular term of office, or to complete the unexpired portion of a regular term, shall be included only after the governing body of the political subdivision has adopted an ordinance or resolution to that effect;

(7) an executive officer of a corporation, except those executive officers excluded by section 176.041;

(8) a voluntary uncompensated worker, other than an inmate, rendering services in state institutions under the commissioners of human services and corrections similar to those of officers and employees of the institutions, and whose services have been accepted or contracted for by the commissioner of human services or corrections as authorized by law. In the event of injury or death of the worker, the daily wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of the injury or death for similar services in institutions where the services are performed by paid employees;

(9) a voluntary uncompensated worker engaged in emergency management as defined in section 12.03, subdivision 4, who is:

(i) registered with the state or any political subdivision of it, according to the procedures set forth in the state or political subdivision emergency operations plan; and

(ii) acting under the direction and control of, and within the scope of duties approved by, the state or political subdivision.

The daily wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of the injury or death for similar services performed by paid employees;

(10) a voluntary uncompensated worker participating in a program established by a local social services agency. For purposes of this clause, "local social services agency" means any agency established under section 393.01. In the event of injury or death of the worker, the wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid in the county at the time of the injury or death for similar services performed by paid employees working a normal day and week;

(11) a voluntary uncompensated worker accepted by the commissioner of natural resources who is rendering services as a volunteer pursuant to section 84.089. The daily wage of the worker for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of injury or death for similar services performed by paid employees;

(12) a voluntary uncompensated worker in the building and construction industry who renders services for joint labor-management nonprofit community service projects. The daily wage of the worker for the purpose of calculating compensation under this chapter shall be the usual wage paid at the time of injury or death for similar services performed by paid employees;

(13) a member of the military forces, as defined in section 190.05, while in state active service, as defined in section 190.05, subdivision 5a. The daily wage of the member for the purpose of calculating compensation under this chapter shall be based on the member's usual earnings in civil life. If there is no evidence of previous occupation or earning, the trier of fact shall consider the member's earnings as a member of the military forces;

(14) a voluntary uncompensated worker, accepted by the director of the Minnesota Historical Society, rendering services as a volunteer, pursuant to chapter 138. The daily wage of the worker, for the purposes of calculating compensation under this chapter, shall be the usual wage paid at the time of injury or death for similar services performed by paid employees;

(15) a voluntary uncompensated worker, other than a student, who renders services at the Minnesota State Academy for the Deaf or the Minnesota State Academy for the Blind, and whose services have been accepted or contracted for by the commissioner of education, as authorized by law. In the event of injury or death of the worker, the daily wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of the injury or death for similar services performed in institutions by paid employees;

(16) a voluntary uncompensated worker, other than a resident of the veterans home, who renders services at a Minnesota veterans home, and whose services have been accepted or contracted for by the commissioner of veterans affairs, as authorized by law. In the event of injury or death of the worker, the daily wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of the injury or death for similar services performed in institutions by paid employees;

(17) a worker performing services under section ~~256B.0655~~ 256B.0659 for a recipient in the home of the recipient or in the community under section 256B.0625, subdivision 19a, who is paid from government funds through a fiscal intermediary under section ~~256B.0655, subdivision 7~~ 256B.0659, subdivision 33. For purposes of maintaining workers' compensation insurance, the



employer of the worker is as designated in law by the commissioner of the Department of Human Services, notwithstanding any other law to the contrary;

(18) students enrolled in and regularly attending the Medical School of the University of Minnesota in the graduate school program or the postgraduate program. The students shall not be considered employees for any other purpose. In the event of the student's injury or death, the weekly wage of the student for the purpose of calculating compensation under this chapter, shall be the annualized educational stipend awarded to the student, divided by 52 weeks. The institution in which the student is enrolled shall be considered the "employer" for the limited purpose of determining responsibility for paying benefits under this chapter;

(19) a faculty member of the University of Minnesota employed for an academic year is also an employee for the period between that academic year and the succeeding academic year if:

(a) the member has a contract or reasonable assurance of a contract from the University of Minnesota for the succeeding academic year; and

(b) the personal injury for which compensation is sought arises out of and in the course of activities related to the faculty member's employment by the University of Minnesota;

(20) a worker who performs volunteer ambulance driver or attendant services is an employee of the political subdivision, nonprofit hospital, nonprofit corporation, or other entity for which the worker performs the services. The daily wage of the worker for the purpose of calculating compensation under this chapter shall be the usual wage paid at the time of injury or death for similar services performed by paid employees;

(21) a voluntary uncompensated worker, accepted by the commissioner of administration, rendering services as a volunteer at the Department of Administration. In the event of injury or death of the worker, the daily wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of the injury or death for similar services performed in institutions by paid employees;

(22) a voluntary uncompensated worker rendering service directly to the Pollution Control Agency. The daily wage of the worker for the purpose of calculating compensation payable under this chapter is the usual going wage paid at the time of injury or death for similar services if the services are performed by paid employees;

(23) a voluntary uncompensated worker while volunteering services as a first responder or as a member of a law enforcement assistance organization while acting under the supervision and authority of a political subdivision. The daily wage of the worker for the purpose of calculating compensation payable under this chapter is the usual going wage paid at the time of injury or death for similar services if the services are performed by paid employees;

(24) a voluntary uncompensated member of the civil air patrol rendering service on the request and under the authority of the state or any of its political subdivisions. The daily wage of the member for the purposes of calculating compensation payable under this chapter is the usual going wage paid at the time of injury or death for similar services if the services are performed by paid employees; and

(25) a Minnesota Responds Medical Reserve Corps volunteer, as provided in sections 145A.04 and 145A.06, responding at the request of or engaged in training conducted by the commissioner of

health. The daily wage of the volunteer for the purposes of calculating compensation payable under this chapter is established in section 145A.06. A person who qualifies under this clause and who may also qualify under another clause of this subdivision shall receive benefits in accordance with this clause.

If it is difficult to determine the daily wage as provided in this subdivision, the trier of fact may determine the wage upon which the compensation is payable.

Sec. 3. Minnesota Statutes 2008, section 245C.03, subdivision 2, is amended to read:

Subd. 2. **Personal care provider organizations.** The commissioner shall conduct background studies on any individual required under sections 256B.0651 ~~and 256B.0653~~ to 256B.0656 and 256B.0659 to have a background study completed under this chapter.

Sec. 4. Minnesota Statutes 2008, section 245C.04, subdivision 3, is amended to read:

Subd. 3. **Personal care provider organizations.** (a) The commissioner shall conduct a background study of an individual required to be studied under section 245C.03, subdivision 2, at least upon application for initial enrollment under sections 256B.0651 ~~and 256B.0653~~ to 256B.0656 and 256B.0659.

(b) Organizations required to initiate background studies under sections 256B.0651 ~~and 256B.0653~~ to 256B.0656 and 256B.0659 for individuals described in section 245C.03, subdivision 2, must submit a completed background study form to the commissioner before those individuals begin a position allowing direct contact with persons served by the organization.

Sec. 5. Minnesota Statutes 2008, section 245C.10, subdivision 3, is amended to read:

Subd. 3. **Personal care provider organizations.** The commissioner shall recover the cost of background studies initiated by a personal care provider organization under sections 256B.0651 ~~and 256B.0653~~ to 256B.0656 and 256B.0659 through a fee of no more than \$20 per study charged to the organization responsible for submitting the background study form. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

Sec. 6. Minnesota Statutes 2008, section 256B.04, subdivision 16, is amended to read:

Subd. 16. **Personal care services.** (a) Notwithstanding any contrary language in this paragraph, the commissioner of human services and the commissioner of health shall jointly promulgate rules to be applied to the licensure of personal care services provided under the medical assistance program. The rules shall consider standards for personal care services that are based on the World Institute on Disability's recommendations regarding personal care services. These rules shall at a minimum consider the standards and requirements adopted by the commissioner of health under section 144A.45, which the commissioner of human services determines are applicable to the provision of personal care services, in addition to other standards or modifications which the commissioner of human services determines are appropriate.

The commissioner of human services shall establish an advisory group including personal care consumers and providers to provide advice regarding which standards or modifications should be adopted. The advisory group membership must include not less than 15 members, of which at least 60 percent must be consumers of personal care services and representatives of recipients with

various disabilities and diagnoses and ages. At least 51 percent of the members of the advisory group must be recipients of personal care.

The commissioner of human services may contract with the commissioner of health to enforce the jointly promulgated licensure rules for personal care service providers.

Prior to final promulgation of the joint rule the commissioner of human services shall report preliminary findings along with any comments of the advisory group and a plan for monitoring and enforcement by the Department of Health to the legislature by February 15, 1992.

Limits on the extent of personal care services that may be provided to an individual must be based on the cost-effectiveness of the services in relation to the costs of inpatient hospital care, nursing home care, and other available types of care. The rules must provide, at a minimum:

(1) that agencies be selected to contract with or employ and train staff to provide and supervise the provision of personal care services;

(2) that agencies employ or contract with a qualified applicant that a qualified recipient proposes to the agency as the recipient's choice of assistant;

(3) that agencies bill the medical assistance program for a personal care service by a personal care assistant and supervision by a qualified professional supervising the personal care assistant unless the recipient selects the fiscal agent option under section ~~256B.0655, subdivision 7~~ 256B.0659, subdivision 33;

(4) that agencies establish a grievance mechanism; and

(5) that agencies have a quality assurance program.

(b) The commissioner may waive the requirement for the provision of personal care services through an agency in a particular county, when there are less than two agencies providing services in that county and shall waive the requirement for personal care assistants required to join an agency for the first time during 1993 when personal care services are provided under a relative hardship waiver under Minnesota Statutes 1992, section 256B.0627, subdivision 4, paragraph (b), clause (7), and at least two agencies providing personal care services have refused to employ or contract with the independent personal care assistant.

Sec. 7. Minnesota Statutes 2008, section 256B.055, subdivision 12, is amended to read:

Subd. 12. **Disabled children.** (a) A person is eligible for medical assistance if the person is under age 19 and qualifies as a disabled individual under United States Code, title 42, section 1382c(a), and would be eligible for medical assistance under the state plan if residing in a medical institution, and the child requires a level of care provided in a hospital, nursing facility, or intermediate care facility for persons with developmental disabilities, for whom home care is appropriate, provided that the cost to medical assistance under this section is not more than the amount that medical assistance would pay for if the child resides in an institution. After the child is determined to be eligible under this section, the commissioner shall review the child's disability under United States Code, title 42, section 1382c(a) and level of care defined under this section no more often than annually and may elect, based on the recommendation of health care professionals under contract with the state medical review team, to extend the review of disability and level of care up to a maximum of four years. The commissioner's decision on the frequency of continuing review of disability and level of

care is not subject to administrative appeal under section 256.045. The county agency shall send a notice of disability review to the enrollee six months prior to the date the recertification of disability is due. Nothing in this subdivision shall be construed as affecting other redeterminations of medical assistance eligibility under this chapter and annual cost-effective reviews under this section.

(b) For purposes of this subdivision, "hospital" means an institution as defined in section 144.696, subdivision 3, 144.55, subdivision 3, or Minnesota Rules, part 4640.3600, and licensed pursuant to sections 144.50 to 144.58. For purposes of this subdivision, a child requires a level of care provided in a hospital if the child is determined by the commissioner to need an extensive array of health services, including mental health services, for an undetermined period of time, whose health condition requires frequent monitoring and treatment by a health care professional or by a person supervised by a health care professional, who would reside in a hospital or require frequent hospitalization if these services were not provided, and the daily care needs are more complex than a nursing facility level of care.

A child with serious emotional disturbance requires a level of care provided in a hospital if the commissioner determines that the individual requires 24-hour supervision because the person exhibits recurrent or frequent suicidal or homicidal ideation or behavior, recurrent or frequent psychosomatic disorders or somatopsychic disorders that may become life threatening, recurrent or frequent severe socially unacceptable behavior associated with psychiatric disorder, ongoing and chronic psychosis or severe, ongoing and chronic developmental problems requiring continuous skilled observation, or severe disabling symptoms for which office-centered outpatient treatment is not adequate, and which overall severely impact the individual's ability to function.

(c) For purposes of this subdivision, "nursing facility" means a facility which provides nursing care as defined in section 144A.01, subdivision 5, licensed pursuant to sections 144A.02 to 144A.10, which is appropriate if a person is in active restorative treatment; is in need of special treatments provided or supervised by a licensed nurse; or has unpredictable episodes of active disease processes requiring immediate judgment by a licensed nurse. For purposes of this subdivision, a child requires the level of care provided in a nursing facility if the child is determined by the commissioner to meet the requirements of the preadmission screening assessment document under section 256B.0911 ~~and the home care independent rating document under section 256B.0655, subdivision 4, clause (3), adjusted to address age-appropriate standards for children age 18 and under, pursuant to section 256B.0655, subdivision 3.~~

(d) For purposes of this subdivision, "intermediate care facility for persons with developmental disabilities" or "ICF/MR" means a program licensed to provide services to persons with developmental disabilities under section 252.28, and chapter 245A, and a physical plant licensed as a supervised living facility under chapter 144, which together are certified by the Minnesota Department of Health as meeting the standards in Code of Federal Regulations, title 42, part 483, for an intermediate care facility which provides services for persons with developmental disabilities who require 24-hour supervision and active treatment for medical, behavioral, or habilitation needs. For purposes of this subdivision, a child requires a level of care provided in an ICF/MR if the commissioner finds that the child has a developmental disability in accordance with section 256B.092, is in need of a 24-hour plan of care and active treatment similar to persons with developmental disabilities, and there is a reasonable indication that the child will need ICF/MR services.

(e) For purposes of this subdivision, a person requires the level of care provided in a nursing

facility if the person requires 24-hour monitoring or supervision and a plan of mental health treatment because of specific symptoms or functional impairments associated with a serious mental illness or disorder diagnosis, which meet severity criteria for mental health established by the commissioner and published in March 1997 as the Minnesota Mental Health Level of Care for Children and Adolescents with Severe Emotional Disorders.

(f) The determination of the level of care needed by the child shall be made by the commissioner based on information supplied to the commissioner by the parent or guardian, the child's physician or physicians, and other professionals as requested by the commissioner. The commissioner shall establish a screening team to conduct the level of care determinations according to this subdivision.

(g) If a child meets the conditions in paragraph (b), (c), (d), or (e), the commissioner must assess the case to determine whether:

(1) the child qualifies as a disabled individual under United States Code, title 42, section 1382c(a), and would be eligible for medical assistance if residing in a medical institution; and

(2) the cost of medical assistance services for the child, if eligible under this subdivision, would not be more than the cost to medical assistance if the child resides in a medical institution to be determined as follows:

(i) for a child who requires a level of care provided in an ICF/MR, the cost of care for the child in an institution shall be determined using the average payment rate established for the regional treatment centers that are certified as ICF's/MR;

(ii) for a child who requires a level of care provided in an inpatient hospital setting according to paragraph (b), cost-effectiveness shall be determined according to Minnesota Rules, part 9505.3520, items F and G; and

(iii) for a child who requires a level of care provided in a nursing facility according to paragraph (c) or (e), cost-effectiveness shall be determined according to Minnesota Rules, part 9505.3040, except that the nursing facility average rate shall be adjusted to reflect rates which would be paid for children under age 16. The commissioner may authorize an amount up to the amount medical assistance would pay for a child referred to the commissioner by the preadmission screening team under section 256B.0911.

(h) Children eligible for medical assistance services under section 256B.055, subdivision 12, as of June 30, 1995, must be screened according to the criteria in this subdivision prior to January 1, 1996. Children found to be ineligible may not be removed from the program until January 1, 1996.

Sec. 8. Minnesota Statutes 2008, section 256B.0621, subdivision 2, is amended to read:

Subd. 2. **Targeted case management; definitions.** For purposes of subdivisions 3 to 10, the following terms have the meanings given them:

(1) "home care service recipients" means those individuals receiving the following services under sections 256B.0651 to 256B.0656 and 256B.0659: skilled nursing visits, home health aide visits, private duty nursing, personal care assistants, or therapies provided through a home health agency;

(2) "home care targeted case management" means the provision of targeted case management

services for the purpose of assisting home care service recipients to gain access to needed services and supports so that they may remain in the community;

(3) "institutions" means hospitals, consistent with Code of Federal Regulations, title 42, section 440.10; regional treatment center inpatient services, consistent with section 245.474; nursing facilities; and intermediate care facilities for persons with developmental disabilities;

(4) "relocation targeted case management" includes the provision of both county targeted case management and public or private vendor service coordination services for the purpose of assisting recipients to gain access to needed services and supports if they choose to move from an institution to the community. Relocation targeted case management may be provided during the lesser of:

- (i) the last 180 consecutive days of an eligible recipient's institutional stay; or
- (ii) the limits and conditions which apply to federal Medicaid funding for this service; and

(5) "targeted case management" means case management services provided to help recipients gain access to needed medical, social, educational, and other services and supports.

Sec. 9. Minnesota Statutes 2008, section 256B.0652, subdivision 3, is amended to read:

Subd. 3. **Assessment and prior authorization process.** Effective January 1, 1996, for purposes of providing informed choice, coordinating of local planning decisions, and streamlining administrative requirements, the assessment and prior authorization process for persons receiving both home care and home and community-based waived services for persons with developmental disabilities shall meet the requirements of sections 256B.0651 ~~and 256B.0653~~ to 256B.0656 and 256B.0659 with the following exceptions:

(a) Upon request for home care services and subsequent assessment by the public health nurse under sections 256B.0651 ~~and 256B.0653~~ to 256B.0656 and 256B.0659, the public health nurse shall participate in the screening process, as appropriate, and, if home care services are determined to be necessary, participate in the development of a service plan coordinating the need for home care and home and community-based waived services with the assigned county case manager, the recipient of services, and the recipient's legal representative, if any.

(b) The public health nurse shall give prior authorization for home care services to the extent that home care services are:

- (1) medically necessary;
- (2) chosen by the recipient and their legal representative, if any, from the array of home care and home and community-based waived services available;
- (3) coordinated with other services to be received by the recipient as described in the service plan; and
- (4) provided within the county's reimbursement limits for home care and home and community-based waived services for persons with developmental disabilities.

(c) If the public health agency is or may be the provider of home care services to the recipient, the public health agency shall provide the commissioner of human services with a written plan that specifies how the assessment and prior authorization process will be held separate and distinct from

the provision of services.

Sec. 10. Minnesota Statutes 2008, section 256B.0657, subdivision 2, is amended to read:

Subd. 2. **Eligibility.** (a) The self-directed supports option is available to a person who:

(1) is a recipient of medical assistance as determined under sections 256B.055, 256B.056, and 256B.057, subdivision 9;

(2) is eligible for personal care assistant services under section ~~256B.0655~~ 256B.0659;

(3) lives in the person's own apartment or home, which is not owned, operated, or controlled by a provider of services not related by blood or marriage;

(4) has the ability to hire, fire, supervise, establish staff compensation for, and manage the individuals providing services, and to choose and obtain items, related services, and supports as described in the participant's plan. If the recipient is not able to carry out these functions but has a legal guardian or parent to carry them out, the guardian or parent may fulfill these functions on behalf of the recipient; and

(5) has not been excluded or disenrolled by the commissioner.

(b) The commissioner may disenroll or exclude recipients, including guardians and parents, under the following circumstances:

(1) recipients who have been restricted by the Primary Care Utilization Review Committee may be excluded for a specified time period;

(2) recipients who exit the self-directed supports option during the recipient's service plan year shall not access the self-directed supports option for the remainder of that service plan year; and

(3) when the department determines that the recipient cannot manage recipient responsibilities under the program.

Sec. 11. Minnesota Statutes 2008, section 256B.0657, subdivision 6, is amended to read:

Subd. 6. **Services covered.** (a) Services covered under the self-directed supports option include:

(1) personal care assistant services under section ~~256B.0655~~ 256B.0659; and

(2) items, related services, and supports, including assistive technology, that increase independence or substitute for human assistance to the extent expenditures would otherwise be used for human assistance.

(b) Items, supports, and related services purchased under this option shall not be considered home care services for the purposes of section 144A.43.

Sec. 12. Minnesota Statutes 2008, section 256B.0657, subdivision 8, is amended to read:

Subd. 8. **Self-directed budget requirements.** The budget for the provision of the self-directed service option shall be equal to the greater of either:

(1) the annual amount of personal care assistant services under section ~~256B.0655~~ 256B.0659 that the recipient has used in the most recent 12-month period; or

(2) the amount determined using the consumer support grant methodology under section 256.476, subdivision 11, except that the budget amount shall include the federal and nonfederal share of the average service costs.

Sec. 13. Minnesota Statutes 2008, section 256B.49, subdivision 17, is amended to read:

**Subd. 17. Cost of services and supports.** (a) The commissioner shall ensure that the average per capita expenditures estimated in any fiscal year for home and community-based waiver recipients does not exceed the average per capita expenditures that would have been made to provide institutional services for recipients in the absence of the waiver.

(b) The commissioner shall implement on January 1, 2002, one or more aggregate, need-based methods for allocating to local agencies the home and community-based waived service resources available to support recipients with disabilities in need of the level of care provided in a nursing facility or a hospital. The commissioner shall allocate resources to single counties and county partnerships in a manner that reflects consideration of:

- (1) an incentive-based payment process for achieving outcomes;
- (2) the need for a state-level risk pool;
- (3) the need for retention of management responsibility at the state agency level; and
- (4) a phase-in strategy as appropriate.

(c) Until the allocation methods described in paragraph (b) are implemented, the annual allowable reimbursement level of home and community-based waiver services shall be the greater of:

(1) the statewide average payment amount which the recipient is assigned under the waiver reimbursement system in place on June 30, 2001, modified by the percentage of any provider rate increase appropriated for home and community-based services; or

(2) an amount approved by the commissioner based on the recipient's extraordinary needs that cannot be met within the current allowable reimbursement level. The increased reimbursement level must be necessary to allow the recipient to be discharged from an institution or to prevent imminent placement in an institution. The additional reimbursement may be used to secure environmental modifications; assistive technology and equipment; and increased costs for supervision, training, and support services necessary to address the recipient's extraordinary needs. The commissioner may approve an increased reimbursement level for up to one year of the recipient's relocation from an institution or up to six months of a determination that a current waiver recipient is at imminent risk of being placed in an institution.

(d) Beginning July 1, 2001, medically necessary private duty nursing services will be authorized under this section as complex and regular care according to sections 256B.0651 and ~~256B.0653~~ to 256B.0656 and 256B.0659. The rate established by the commissioner for registered nurse or licensed practical nurse services under any home and community-based waiver as of January 1, 2001, shall not be reduced.

Sec. 14. Minnesota Statutes 2008, section 256B.501, subdivision 4a, is amended to read:

**Subd. 4a. Inclusion of home care costs in waiver rates.** The commissioner shall adjust the



limits of the established average daily reimbursement rates for waived services to include the cost of home care services that may be provided to waived services recipients. This adjustment must be used to maintain or increase services and shall not be used by county agencies for inflation increases for waived services vendors. Home care services referenced in this section are those listed in section 256B.0651, subdivision 2. The average daily reimbursement rates established in accordance with the provisions of this subdivision apply only to the combined average, daily costs of waived and home care services and do not change home care limitations under sections 256B.0651 and ~~256B.0653~~ to 256B.0656 and 256B.0659. Waivered services recipients receiving home care as of June 30, 1992, shall not have the amount of their services reduced as a result of this section.

Sec. 15. Minnesota Statutes 2008, section 256G.02, subdivision 6, is amended to read:

Subd. 6. **Excluded time.** "Excluded time" means:

(a) any period an applicant spends in a hospital, sanitarium, nursing home, shelter other than an emergency shelter, halfway house, foster home, semi-independent living domicile or services program, residential facility offering care, board and lodging facility or other institution for the hospitalization or care of human beings, as defined in section 144.50, 144A.01, or 245A.02, subdivision 14; maternity home, battered women's shelter, or correctional facility; or any facility based on an emergency hold under sections 253B.05, subdivisions 1 and 2, and 253B.07, subdivision 6;

(b) any period an applicant spends on a placement basis in a training and habilitation program, including a rehabilitation facility or work or employment program as defined in section 268A.01; or receiving personal care assistant services pursuant to section ~~256B.0655, subdivision 2~~ 256B.0659; semi-independent living services provided under section 252.275, and Minnesota Rules, parts 9525.0500 to 9525.0660; day training and habilitation programs and assisted living services; and

(c) any placement for a person with an indeterminate commitment, including independent living.

Sec. 16. Minnesota Statutes 2008, section 256I.05, subdivision 1a, is amended to read:

Subd. 1a. **Supplementary service rates.** (a) Subject to the provisions of section 256I.04, subdivision 3, the county agency may negotiate a payment not to exceed \$426.37 for other services necessary to provide room and board provided by the group residence if the residence is licensed by or registered by the Department of Health, or licensed by the Department of Human Services to provide services in addition to room and board, and if the provider of services is not also concurrently receiving funding for services for a recipient under a home and community-based waiver under title XIX of the Social Security Act; or funding from the medical assistance program under section ~~256B.0655, subdivision 2~~ 256B.0659, for personal care services for residents in the setting; or residing in a setting which receives funding under Minnesota Rules, parts 9535.2000 to 9535.3000. If funding is available for other necessary services through a home and community-based waiver, or personal care services under section ~~256B.0655, subdivision 2~~ 256B.0659, then the GRH rate is limited to the rate set in subdivision 1. Unless otherwise provided in law, in no case may the supplementary service rate exceed \$426.37. The registration and licensure requirement does not apply to establishments which are exempt from state licensure because they are located on Indian reservations and for which the tribe has prescribed health and safety requirements. Service payments under this section may be prohibited under rules to prevent the supplanting of federal funds with state funds. The commissioner shall pursue the feasibility of obtaining the approval of the Secretary of Health and Human Services to provide home and

community-based waiver services under title XIX of the Social Security Act for residents who are not eligible for an existing home and community-based waiver due to a primary diagnosis of mental illness or chemical dependency and shall apply for a waiver if it is determined to be cost-effective.

(b) The commissioner is authorized to make cost-neutral transfers from the GRH fund for beds under this section to other funding programs administered by the department after consultation with the county or counties in which the affected beds are located. The commissioner may also make cost-neutral transfers from the GRH fund to county human service agencies for beds permanently removed from the GRH census under a plan submitted by the county agency and approved by the commissioner. The commissioner shall report the amount of any transfers under this provision annually to the legislature.

(c) The provisions of paragraph (b) do not apply to a facility that has its reimbursement rate established under section 256B.431, subdivision 4, paragraph (c).

Sec. 17. Minnesota Statutes 2008, section 256J.45, subdivision 3, is amended to read:

Subd. 3. **Good cause exemptions for not attending orientation.** (a) The county agency shall not impose the sanction under section 256J.46 if it determines that the participant has good cause for failing to attend orientation. Good cause exists when:

(1) appropriate child care is not available;

(2) the participant is ill or injured;

(3) a family member is ill and needs care by the participant that prevents the participant from attending orientation. For a caregiver with a child or adult in the household who meets the disability or medical criteria for home care services under section ~~256B.0655, subdivision 1e~~ 256B.0659, or a home and community-based waiver services program under chapter 256B, or meets the criteria for severe emotional disturbance under section 245.4871, subdivision 6, or for serious and persistent mental illness under section 245.462, subdivision 20, paragraph (c), good cause also exists when an interruption in the provision of those services occurs which prevents the participant from attending orientation;

(4) the caregiver is unable to secure necessary transportation;

(5) the caregiver is in an emergency situation that prevents orientation attendance;

(6) the orientation conflicts with the caregiver's work, training, or school schedule; or

(7) the caregiver documents other verifiable impediments to orientation attendance beyond the caregiver's control.

(b) Counties must work with clients to provide child care and transportation necessary to ensure a caregiver has every opportunity to attend orientation.

Sec. 18. Minnesota Statutes 2008, section 604A.33, subdivision 1, is amended to read:

Subdivision 1. **Application.** This section applies to residential treatment programs for children or group homes for children licensed under chapter 245A, residential services and programs for juveniles licensed under section 241.021, providers licensed pursuant to sections 144A.01 to 144A.33 or sections 144A.43 to 144A.47, personal care provider organizations under section

~~256B.0655, subdivision 1g~~ 256B.0659, providers of day training and habilitation services under sections 252.40 to 252.46, board and lodging facilities licensed under chapter 157, intermediate care facilities for persons with developmental disabilities, and other facilities licensed to provide residential services to persons with developmental disabilities.

Sec. 19. Minnesota Statutes 2008, section 609.232, subdivision 11, is amended to read:

Subd. 11. **Vulnerable adult.** "Vulnerable adult" means any person 18 years of age or older who:

(1) is a resident inpatient of a facility;

(2) receives services at or from a facility required to be licensed to serve adults under sections 245A.01 to 245A.15, except that a person receiving outpatient services for treatment of chemical dependency or mental illness, or one who is committed as a sexual psychopathic personality or as a sexually dangerous person under chapter 253B, is not considered a vulnerable adult unless the person meets the requirements of clause (4);

(3) receives services from a home care provider required to be licensed under section 144A.46; or from a person or organization that exclusively offers, provides, or arranges for personal care assistant services under the medical assistance program as authorized under sections 256B.04, subdivision 16, 256B.0625, subdivision 19a, 256B.0651, ~~and 256B.0653~~ to 256B.0656 and 256B.0659; or

(4) regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction:

(i) that impairs the individual's ability to provide adequately for the individual's own care without assistance, including the provision of food, shelter, clothing, health care, or supervision; and

(ii) because of the dysfunction or infirmity and the need for assistance, the individual has an impaired ability to protect the individual from maltreatment.

Sec. 20. Minnesota Statutes 2008, section 626.5572, subdivision 6, is amended to read:

Subd. 6. **Facility.** (a) "Facility" means a hospital or other entity required to be licensed under sections 144.50 to 144.58; a nursing home required to be licensed to serve adults under section 144A.02; a residential or nonresidential facility required to be licensed to serve adults under sections 245A.01 to 245A.16; a home care provider licensed or required to be licensed under section 144A.46; a hospice provider licensed under sections 144A.75 to 144A.755; or a person or organization that exclusively offers, provides, or arranges for personal care assistant services under the medical assistance program as authorized under sections 256B.04, subdivision 16, 256B.0625, subdivision 19a, 256B.0651, ~~and 256B.0653~~ to 256B.0656, and 256B.0659.

(b) For home care providers and personal care attendants, the term "facility" refers to the provider or person or organization that exclusively offers, provides, or arranges for personal care services, and does not refer to the client's home or other location at which services are rendered.

Sec. 21. Minnesota Statutes 2008, section 626.5572, subdivision 21, is amended to read:

Subd. 21. **Vulnerable adult.** "Vulnerable adult" means any person 18 years of age or older who:

(1) is a resident or inpatient of a facility;

(2) receives services at or from a facility required to be licensed to serve adults under sections 245A.01 to 245A.15, except that a person receiving outpatient services for treatment of chemical dependency or mental illness, or one who is served in the Minnesota sex offender program on a court-hold order for commitment, or is committed as a sexual psychopathic personality or as a sexually dangerous person under chapter 253B, is not considered a vulnerable adult unless the person meets the requirements of clause (4);

(3) receives services from a home care provider required to be licensed under section 144A.46; or from a person or organization that exclusively offers, provides, or arranges for personal care assistant services under the medical assistance program as authorized under sections 256B.04, subdivision 16, 256B.0625, subdivision 19a, 256B.0651, and 256B.0653 to 256B.0656, and 256B.0659; or

(4) regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction:

(i) that impairs the individual's ability to provide adequately for the individual's own care without assistance, including the provision of food, shelter, clothing, health care, or supervision; and

(ii) because of the dysfunction or infirmity and the need for assistance, the individual has an impaired ability to protect the individual from maltreatment.

## ARTICLE 7

### CHEMICAL AND MENTAL HEALTH

Section 1. Minnesota Statutes 2008, section 245.462, subdivision 18, is amended to read:

Subd. 18. **Mental health professional.** "Mental health professional" means a person providing clinical services in the treatment of mental illness who is qualified in at least one of the following ways:

(1) in psychiatric nursing: a registered nurse who is licensed under sections 148.171 to 148.285; and:

(i) who is certified as a clinical specialist or as a nurse practitioner in adult or family psychiatric and mental health nursing by a national nurse certification organization; or

(ii) who has a master's degree in nursing or one of the behavioral sciences or related fields from an accredited college or university or its equivalent, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(2) in clinical social work: a person licensed as an independent clinical social worker under chapter 148D, or a person with a master's degree in social work from an accredited college or university, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(3) in psychology: an individual licensed by the Board of Psychology under sections 148.88 to 148.98 who has stated to the Board of Psychology competencies in the diagnosis and treatment of mental illness;

(4) in psychiatry: a physician licensed under chapter 147 and certified by the American Board of Psychiatry and Neurology or eligible for board certification in psychiatry;

(5) in marriage and family therapy: the mental health professional must be a marriage and family therapist licensed under sections 148B.29 to 148B.39 with at least two years of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness; or

(6) in licensed professional clinical counseling, the mental health professional shall be a licensed professional clinical counselor under section 148B.5301 with at least 4,000 hours of postmaster's supervised experience in the delivery of clinical services in the treatment of mental illness; or

(7) in allied fields: a person with a master's degree from an accredited college or university in one of the behavioral sciences or related fields, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness.

Sec. 2. Minnesota Statutes 2008, section 245.470, subdivision 1, is amended to read:

Subdivision 1. **Availability of outpatient services.** (a) County boards must provide or contract for enough outpatient services within the county to meet the needs of adults with mental illness residing in the county. Services may be provided directly by the county through county-operated mental health centers or mental health clinics approved by the commissioner under section 245.69, subdivision 2; by contract with privately operated mental health centers or mental health clinics approved by the commissioner under section 245.69, subdivision 2; by contract with hospital mental health outpatient programs certified by the Joint Commission on Accreditation of Hospital Organizations; or by contract with a licensed mental health professional as defined in section 245.462, subdivision 18, clauses (1) to ~~(4)~~ (6). Clients may be required to pay a fee according to section 245.481. Outpatient services include:

- (1) conducting diagnostic assessments;
- (2) conducting psychological testing;
- (3) developing or modifying individual treatment plans;
- (4) making referrals and recommending placements as appropriate;
- (5) treating an adult's mental health needs through therapy;
- (6) prescribing and managing medication and evaluating the effectiveness of prescribed medication; and
- (7) preventing placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet client needs.

(b) County boards may request a waiver allowing outpatient services to be provided in a nearby trade area if it is determined that the client can best be served outside the county.

Sec. 3. Minnesota Statutes 2008, section 245.4871, subdivision 27, is amended to read:

Subd. 27. **Mental health professional.** "Mental health professional" means a person providing clinical services in the diagnosis and treatment of children's emotional disorders. A mental health professional must have training and experience in working with children consistent with the age group to which the mental health professional is assigned. A mental health professional must be qualified in at least one of the following ways:

(1) in psychiatric nursing, the mental health professional must be a registered nurse who is licensed under sections 148.171 to 148.285 and who is certified as a clinical specialist in child and adolescent psychiatric or mental health nursing by a national nurse certification organization or who has a master's degree in nursing or one of the behavioral sciences or related fields from an accredited college or university or its equivalent, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(2) in clinical social work, the mental health professional must be a person licensed as an independent clinical social worker under chapter 148D, or a person with a master's degree in social work from an accredited college or university, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental disorders;

(3) in psychology, the mental health professional must be an individual licensed by the board of psychology under sections 148.88 to 148.98 who has stated to the board of psychology competencies in the diagnosis and treatment of mental disorders;

(4) in psychiatry, the mental health professional must be a physician licensed under chapter 147 and certified by the American board of psychiatry and neurology or eligible for board certification in psychiatry;

(5) in marriage and family therapy, the mental health professional must be a marriage and family therapist licensed under sections 148B.29 to 148B.39 with at least two years of post-master's supervised experience in the delivery of clinical services in the treatment of mental disorders or emotional disturbances; or

(6) in licensed professional clinical counseling, the mental health professional shall be a licensed professional clinical counselor under section 148B.5301 with at least 4,000 hours of postmaster's supervised experience in the delivery of clinical services in the treatment of mental disorders or emotional disturbances; or

(7) in allied fields, the mental health professional must be a person with a master's degree from an accredited college or university in one of the behavioral sciences or related fields, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of emotional disturbances.

Sec. 4. Minnesota Statutes 2008, section 245.488, subdivision 1, is amended to read:

Subdivision 1. **Availability of outpatient services.** (a) County boards must provide or contract for enough outpatient services within the county to meet the needs of each child with emotional disturbance residing in the county and the child's family. Services may be provided directly by the county through county-operated mental health centers or mental health clinics approved by the commissioner under section 245.69, subdivision 2; by contract with privately operated mental health centers or mental health clinics approved by the commissioner under section 245.69, subdivision 2; by contract with hospital mental health outpatient programs certified by the Joint Commission on Accreditation of Hospital Organizations; or by contract with a licensed mental health professional as defined in section 245.4871, subdivision 27, clauses (1) to ~~(4)~~ (6). A child or a child's parent may be required to pay a fee based in accordance with section 245.481. Outpatient services include:

(1) conducting diagnostic assessments;

(2) conducting psychological testing;

- (3) developing or modifying individual treatment plans;
- (4) making referrals and recommending placements as appropriate;
- (5) treating the child's mental health needs through therapy; and
- (6) prescribing and managing medication and evaluating the effectiveness of prescribed medication.

(b) County boards may request a waiver allowing outpatient services to be provided in a nearby trade area if it is determined that the child requires necessary and appropriate services that are only available outside the county.

(c) Outpatient services offered by the county board to prevent placement must be at the level of treatment appropriate to the child's diagnostic assessment.

Sec. 5. Minnesota Statutes 2008, section 254A.02, is amended by adding a subdivision to read:

Subd. 8a. **Placing authority.** "Placing authority" means a county, prepaid health plan, or tribal governing board governed by Minnesota Rules, parts 9530.6600 to 9530.6655.

Sec. 6. Minnesota Statutes 2008, section 254A.16, is amended by adding a subdivision to read:

Subd. 6. **Monitoring.** The commissioner shall gather and placing authorities shall provide information to measure compliance with Minnesota Rules, parts 9530.6600 to 9530.6655. The commissioner shall specify the format for data collection to facilitate tracking, aggregating, and using the information.

Sec. 7. Minnesota Statutes 2008, section 254B.03, subdivision 1, is amended to read:

Subdivision 1. **Local agency duties.** (a) Every local agency shall provide chemical dependency services to persons residing within its jurisdiction who meet criteria established by the commissioner for placement in a chemical dependency residential or nonresidential treatment service. Chemical dependency money must be administered by the local agencies according to law and rules adopted by the commissioner under sections 14.001 to 14.69.

(b) In order to contain costs, ~~the county board shall, with the approval of the commissioner of human services, shall select eligible vendors of chemical dependency services who can provide economical and appropriate treatment. Unless the local agency is a social services department directly administered by a county or human services board, the local agency shall not be an eligible vendor under section 254B.05. The commissioner may approve proposals from county boards to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary services are provided. If a county implements a demonstration or experimental medical services funding plan, the commissioner shall transfer the money as appropriate. If a county selects a vendor located in another state, the county shall ensure that the vendor is in compliance with the rules governing licensure of programs located in the state.~~

(c) A culturally specific vendor that provides assessments under a variance under Minnesota Rules, part 9530.6610, shall be allowed to provide assessment services to persons not covered by the variance.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 8. Minnesota Statutes 2008, section 254B.03, subdivision 3, is amended to read:

Subd. 3. **Local agencies to pay state for county share.** Local agencies shall pay the state for the county share of the services authorized by the local agency, except when the payment is made according to section 254B.09, subdivision 8.

Sec. 9. Minnesota Statutes 2008, section 254B.03, is amended by adding a subdivision to read:

Subd. 9. **Commissioner to select vendors and set rates.** (a) Effective July 1, 2011, the commissioner shall:

(1) enter into agreements with eligible vendors that:

(i) meet the standards in section 254B.05, subdivision 1;

(ii) have good standing in all applicable licensure; and

(iii) have a current approved provider agreement as a Minnesota health care program provider;  
and

(2) set rates for services reimbursed under this chapter.

(b) When setting rates, the commissioner shall consider the complexity and the acuity of the problems presented by the client.

(c) When rates set under this section and rates set under section 254B.09, subdivision 8, apply to the same treatment placement, section 254B.09, subdivision 8, supersedes.

Sec. 10. Minnesota Statutes 2008, section 254B.05, subdivision 1, is amended to read:

Subdivision 1. **Licensure required.** Programs licensed by the commissioner are eligible vendors. Hospitals may apply for and receive licenses to be eligible vendors, notwithstanding the provisions of section 245A.03. American Indian programs located on federally recognized tribal lands that provide chemical dependency primary treatment, extended care, transitional residence, or outpatient treatment services, and are licensed by tribal government are eligible vendors. Detoxification programs are not eligible vendors. Programs that are not licensed as a chemical dependency residential or nonresidential treatment program by the commissioner or by tribal government are not eligible vendors. To be eligible for payment under the Consolidated Chemical Dependency Treatment Fund, a vendor of a chemical dependency service must participate in the Drug and Alcohol Abuse Normative Evaluation System and the treatment accountability plan.

Effective January 1, 2000, vendors of room and board are eligible for chemical dependency fund payment if the vendor:

~~(1) is certified by the county or tribal governing body as having~~ has rules prohibiting residents bringing chemicals into the facility or using chemicals while residing in the facility and provide consequences for infractions of those rules;

(2) has a current contract with a county or tribal governing body;

(3) is determined to meet applicable health and safety requirements;

(4) is not a jail or prison; and



(5) is not concurrently receiving funds under chapter 256I for the recipient.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 11. Minnesota Statutes 2008, section 254B.09, subdivision 2, is amended to read:

Subd. 2. **American Indian agreements.** The commissioner may enter into agreements with federally recognized tribal units to pay for chemical dependency treatment services provided under Laws 1986, chapter 394, sections 8 to 20. The agreements must clarify how the governing body of the tribal unit fulfills local agency responsibilities regarding:

~~(1) selection of eligible vendors under section 254B.03, subdivision 1;~~

~~(2) negotiation of agreements that establish vendor services and rates for programs located on the tribal governing body's reservation;~~

~~(3) (1) the form and manner of invoicing; and~~

(4) (2) provide that only invoices for eligible vendors according to section 254B.05 will be included in invoices sent to the commissioner for payment, to the extent that money allocated under subdivisions 4 and 5 is used.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 12. **[254B.11] MAXIMUM RATES.**

The commissioner shall publish maximum rates for vendors of the consolidated chemical dependency treatment fund by July 1 of each year for implementation the following January 1. Rates for calendar year 2010 must not exceed 185 percent of the average rate on January 1, 2009, for each group of vendors with similar attributes. Unless a new rate methodology is developed under section 254B.12, rates for services provided on and after July 1, 2011, must not exceed 160 percent of the average rate on January 1, 2009, for each group of vendors with similar attributes. Payment for services provided by Indian Health Services or by agencies operated by Indian tribes for medical assistance-eligible individuals must be governed by the applicable federal rate methodology.

Sec. 13. **[254B.12] RATE METHODOLOGY.**

The commissioner shall, with broad-based stakeholder input, develop a recommendation and present a report to the 2011 legislature, including proposed legislation for a new rate methodology for the consolidated chemical dependency treatment fund. The new methodology must replace county-negotiated rates with a uniform statewide methodology that must include a graduated reimbursement scale based on the patients' level of acuity and complexity.

Sec. 14. Minnesota Statutes 2008, section 256B.0622, subdivision 2, is amended to read:

Subd. 2. **Definitions.** For purposes of this section, the following terms have the meanings given them.

(a) "Intensive nonresidential rehabilitative mental health services" means adult rehabilitative mental health services as defined in section 256B.0623, subdivision 2, paragraph (a), except that these services are provided by a multidisciplinary staff using a total team approach consistent with

assertive community treatment, the Fairweather Lodge treatment model, as defined by the standards established by the National Coalition for Community Living, and other evidence-based practices, and directed to recipients with a serious mental illness who require intensive services.

(b) "Intensive residential rehabilitative mental health services" means short-term, time-limited services provided in a residential setting to recipients who are in need of more restrictive settings and are at risk of significant functional deterioration if they do not receive these services. Services are designed to develop and enhance psychiatric stability, personal and emotional adjustment, self-sufficiency, and skills to live in a more independent setting. Services must be directed toward a targeted discharge date with specified client outcomes and must be consistent with the Fairweather Lodge treatment model as defined in paragraph (a), and other evidence-based practices.

(c) "Evidence-based practices" are nationally recognized mental health services that are proven by substantial research to be effective in helping individuals with serious mental illness obtain specific treatment goals.

(d) "Overnight staff" means a member of the intensive residential rehabilitative mental health treatment team who is responsible during hours when recipients are typically asleep.

(e) "Treatment team" means all staff who provide services under this section to recipients. At a minimum, this includes the clinical supervisor, mental health professionals as defined in section 245.462, subdivision 18, clauses (1) to ~~(5)~~ (6); mental health practitioners as defined in section 245.462, subdivision 17; mental health rehabilitation workers under section 256B.0623, subdivision 5, clause (3); and certified peer specialists under section 256B.0615.

Sec. 15. Minnesota Statutes 2008, section 256B.0623, subdivision 5, is amended to read:

**Subd. 5. Qualifications of provider staff.** Adult rehabilitative mental health services must be provided by qualified individual provider staff of a certified provider entity. Individual provider staff must be qualified under one of the following criteria:

(1) a mental health professional as defined in section 245.462, subdivision 18, clauses (1) to ~~(5)~~ (6). If the recipient has a current diagnostic assessment by a licensed mental health professional as defined in section 245.462, subdivision 18, clauses (1) to ~~(5)~~ (6), recommending receipt of adult mental health rehabilitative services, the definition of mental health professional for purposes of this section includes a person who is qualified under section 245.462, subdivision 18, clause ~~(6)~~ (7), and who holds a current and valid national certification as a certified rehabilitation counselor or certified psychosocial rehabilitation practitioner;

(2) a mental health practitioner as defined in section 245.462, subdivision 17. The mental health practitioner must work under the clinical supervision of a mental health professional;

(3) a certified peer specialist under section 256B.0615. The certified peer specialist must work under the clinical supervision of a mental health professional; or

(4) a mental health rehabilitation worker. A mental health rehabilitation worker means a staff person working under the direction of a mental health practitioner or mental health professional and under the clinical supervision of a mental health professional in the implementation of rehabilitative mental health services as identified in the recipient's individual treatment plan who:

(i) is at least 21 years of age;

(ii) has a high school diploma or equivalent;

(iii) has successfully completed 30 hours of training during the past two years in all of the following areas: recipient rights, recipient-centered individual treatment planning, behavioral terminology, mental illness, co-occurring mental illness and substance abuse, psychotropic medications and side effects, functional assessment, local community resources, adult vulnerability, recipient confidentiality; and

(iv) meets the qualifications in subitem (A) or (B):

(A) has an associate of arts degree in one of the behavioral sciences or human services, or is a registered nurse without a bachelor's degree, or who within the previous ten years has:

(1) three years of personal life experience with serious and persistent mental illness;

(2) three years of life experience as a primary caregiver to an adult with a serious mental illness or traumatic brain injury; or

(3) 4,000 hours of supervised paid work experience in the delivery of mental health services to adults with a serious mental illness or traumatic brain injury; or

(B)(1) is fluent in the non-English language or competent in the culture of the ethnic group to which at least 20 percent of the mental health rehabilitation worker's clients belong;

(2) receives during the first 2,000 hours of work, monthly documented individual clinical supervision by a mental health professional;

(3) has 18 hours of documented field supervision by a mental health professional or practitioner during the first 160 hours of contact work with recipients, and at least six hours of field supervision quarterly during the following year;

(4) has review and cosignature of charting of recipient contacts during field supervision by a mental health professional or practitioner; and

(5) has 40 hours of additional continuing education on mental health topics during the first year of employment.

Sec. 16. Minnesota Statutes 2008, section 256B.0624, subdivision 5, is amended to read:

Subd. 5. **Mobile crisis intervention staff qualifications.** For provision of adult mental health mobile crisis intervention services, a mobile crisis intervention team is comprised of at least two mental health professionals as defined in section 245.462, subdivision 18, clauses (1) to ~~(5)~~ (6), or a combination of at least one mental health professional and one mental health practitioner as defined in section 245.462, subdivision 17, with the required mental health crisis training and under the clinical supervision of a mental health professional on the team. The team must have at least two people with at least one member providing on-site crisis intervention services when needed. Team members must be experienced in mental health assessment, crisis intervention techniques, and clinical decision-making under emergency conditions and have knowledge of local services and resources. The team must recommend and coordinate the team's services with appropriate local resources such as the county social services agency, mental health services, and local law enforcement when necessary.

Sec. 17. Minnesota Statutes 2008, section 256B.0624, subdivision 8, is amended to read:

Subd. 8. **Adult crisis stabilization staff qualifications.** (a) Adult mental health crisis stabilization services must be provided by qualified individual staff of a qualified provider entity. Individual provider staff must have the following qualifications:

(1) be a mental health professional as defined in section 245.462, subdivision 18, clauses (1) to ~~(5)~~ (6);

(2) be a mental health practitioner as defined in section 245.462, subdivision 17. The mental health practitioner must work under the clinical supervision of a mental health professional; or

(3) be a mental health rehabilitation worker who meets the criteria in section 256B.0623, subdivision 5, clause (3); works under the direction of a mental health practitioner as defined in section 245.462, subdivision 17, or under direction of a mental health professional; and works under the clinical supervision of a mental health professional.

(b) Mental health practitioners and mental health rehabilitation workers must have completed at least 30 hours of training in crisis intervention and stabilization during the past two years.

Sec. 18. Minnesota Statutes 2008, section 256B.0625, subdivision 42, is amended to read:

Subd. 42. **Mental health professional.** Notwithstanding Minnesota Rules, part 9505.0175, subpart 28, the definition of a mental health professional shall include a person who is qualified as specified in section 245.462, subdivision 18, ~~clause~~ clauses (5) and (6); or 245.4871, subdivision 27, ~~clause~~ clauses (5) and (6), for the purpose of this section and Minnesota Rules, parts 9505.0170 to 9505.0475.

Sec. 19. Minnesota Statutes 2008, section 256B.0943, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given them.

(a) "Children's therapeutic services and supports" means the flexible package of mental health services for children who require varying therapeutic and rehabilitative levels of intervention. The services are time-limited interventions that are delivered using various treatment modalities and combinations of services designed to reach treatment outcomes identified in the individual treatment plan.

(b) "Clinical supervision" means the overall responsibility of the mental health professional for the control and direction of individualized treatment planning, service delivery, and treatment review for each client. A mental health professional who is an enrolled Minnesota health care program provider accepts full professional responsibility for a supervisee's actions and decisions, instructs the supervisee in the supervisee's work, and oversees or directs the supervisee's work.

(c) "County board" means the county board of commissioners or board established under sections 402.01 to 402.10 or 471.59.

(d) "Crisis assistance" has the meaning given in section 245.4871, subdivision 9a.

(e) "Culturally competent provider" means a provider who understands and can utilize to a client's benefit the client's culture when providing services to the client. A provider may be culturally

competent because the provider is of the same cultural or ethnic group as the client or the provider has developed the knowledge and skills through training and experience to provide services to culturally diverse clients.

(f) "Day treatment program" for children means a site-based structured program consisting of group psychotherapy for more than three individuals and other intensive therapeutic services provided by a multidisciplinary team, under the clinical supervision of a mental health professional.

(g) "Diagnostic assessment" has the meaning given in section 245.4871, subdivision 11.

(h) "Direct service time" means the time that a mental health professional, mental health practitioner, or mental health behavioral aide spends face-to-face with a client and the client's family. Direct service time includes time in which the provider obtains a client's history or provides service components of children's therapeutic services and supports. Direct service time does not include time doing work before and after providing direct services, including scheduling, maintaining clinical records, consulting with others about the client's mental health status, preparing reports, receiving clinical supervision directly related to the client's psychotherapy session, and revising the client's individual treatment plan.

(i) "Direction of mental health behavioral aide" means the activities of a mental health professional or mental health practitioner in guiding the mental health behavioral aide in providing services to a client. The direction of a mental health behavioral aide must be based on the client's individualized treatment plan and meet the requirements in subdivision 6, paragraph (b), clause (5).

(j) "Emotional disturbance" has the meaning given in section 245.4871, subdivision 15. For persons at least age 18 but under age 21, mental illness has the meaning given in section 245.462, subdivision 20, paragraph (a).

(k) "Individual behavioral plan" means a plan of intervention, treatment, and services for a child written by a mental health professional or mental health practitioner, under the clinical supervision of a mental health professional, to guide the work of the mental health behavioral aide.

(l) "Individual treatment plan" has the meaning given in section 245.4871, subdivision 21.

(m) "Mental health professional" means an individual as defined in section 245.4871, subdivision 27, clauses (1) to ~~(5)~~ (6), or tribal vendor as defined in section 256B.02, subdivision 7, paragraph (b).

(n) "Preschool program" means a day program licensed under Minnesota Rules, parts 9503.0005 to 9503.0175, and enrolled as a children's therapeutic services and supports provider to provide a structured treatment program to a child who is at least 33 months old but who has not yet attended the first day of kindergarten.

(o) "Skills training" means individual, family, or group training designed to improve the basic functioning of the child with emotional disturbance and the child's family in the activities of daily living and community living, and to improve the social functioning of the child and the child's family in areas important to the child's maintaining or reestablishing residency in the community. Individual, family, and group skills training must:

(1) consist of activities designed to promote skill development of the child and the child's family in the use of age-appropriate daily living skills, interpersonal and family relationships, and leisure

and recreational services;

(2) consist of activities that will assist the family's understanding of normal child development and to use parenting skills that will help the child with emotional disturbance achieve the goals outlined in the child's individual treatment plan; and

(3) promote family preservation and unification, promote the family's integration with the community, and reduce the use of unnecessary out-of-home placement or institutionalization of children with emotional disturbance.

Sec. 20. Minnesota Statutes 2008, section 256B.0625, subdivision 47, is amended to read:

Subd. 47. **Treatment foster care services.** Effective July 1, ~~2007~~ 2011, and subject to federal approval, medical assistance covers treatment foster care services according to section 256B.0946.

Sec. 21. Minnesota Statutes 2008, section 256B.0943, subdivision 12, is amended to read:

Subd. 12. **Excluded services.** The following services are not eligible for medical assistance payment as children's therapeutic services and supports:

(1) service components of children's therapeutic services and supports simultaneously provided by more than one provider entity unless prior authorization is obtained;

(2) treatment by multiple providers within the same agency at the same clock time;

(3) children's therapeutic services and supports provided in violation of medical assistance policy in Minnesota Rules, part 9505.0220;

~~(3)~~ (4) mental health behavioral aide services provided by a personal care assistant who is not qualified as a mental health behavioral aide and employed by a certified children's therapeutic services and supports provider entity;

~~(4)~~ (5) service components of CTSS that are the responsibility of a residential or program license holder, including foster care providers under the terms of a service agreement or administrative rules governing licensure;

~~(5)~~ (6) adjunctive activities that may be offered by a provider entity but are not otherwise covered by medical assistance, including:

(i) a service that is primarily recreation oriented or that is provided in a setting that is not medically supervised. This includes sports activities, exercise groups, activities such as craft hours, leisure time, social hours, meal or snack time, trips to community activities, and tours;

(ii) a social or educational service that does not have or cannot reasonably be expected to have a therapeutic outcome related to the client's emotional disturbance;

(iii) consultation with other providers or service agency staff about the care or progress of a client;

(iv) prevention or education programs provided to the community; and

(v) treatment for clients with primary diagnoses of alcohol or other drug abuse; and

~~(6)~~ (7) activities that are not direct service time.

Sec. 22. Minnesota Statutes 2008, section 256B.0944, is amended by adding a subdivision to read:

Subd. 4a. **Alternative provider standards.** If a provider entity demonstrates that, due to geographic or other barriers, it is not feasible to provide mobile crisis intervention services 24 hours a day, seven days a week, according to the standards in subdivision 4, paragraph (b), clause (1), the commissioner may approve a crisis response provider based on an alternative plan proposed by a provider entity. The alternative plan must:

(1) result in increased access and a reduction in disparities in the availability of crisis services; and

(2) provide mobile services outside of the usual nine-to-five office hours and on weekends and holidays.

Sec. 23. Minnesota Statutes 2008, section 256B.0947, subdivision 1, is amended to read:

Subdivision 1. **Scope.** ~~Subject to federal approval~~ Effective November 1, 2010, and subject to federal approval, medical assistance covers medically necessary, intensive nonresidential rehabilitative mental health services as defined in subdivision 2, for recipients as defined in subdivision 3, when the services are provided by an entity meeting the standards in this section.

Sec. 24. Minnesota Statutes 2008, section 256J.08, subdivision 73a, is amended to read:

Subd. 73a. **Qualified professional.** (a) For physical illness, injury, or incapacity, a "qualified professional" means a licensed physician, a physician's assistant, a nurse practitioner, or a licensed chiropractor.

(b) For developmental disability and intelligence testing, a "qualified professional" means an individual qualified by training and experience to administer the tests necessary to make determinations, such as tests of intellectual functioning, assessments of adaptive behavior, adaptive skills, and developmental functioning. These professionals include licensed psychologists, certified school psychologists, or certified psychometrists working under the supervision of a licensed psychologist.

(c) For learning disabilities, a "qualified professional" means a licensed psychologist or school psychologist with experience determining learning disabilities.

(d) For mental health, a "qualified professional" means a licensed physician or a qualified mental health professional. A "qualified mental health professional" means:

(1) for children, in psychiatric nursing, a registered nurse who is licensed under sections 148.171 to 148.285, and who is certified as a clinical specialist in child and adolescent psychiatric or mental health nursing by a national nurse certification organization or who has a master's degree in nursing or one of the behavioral sciences or related fields from an accredited college or university or its equivalent, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(2) for adults, in psychiatric nursing, a registered nurse who is licensed under sections 148.171 to 148.285, and who is certified as a clinical specialist in adult psychiatric and mental health nursing by a national nurse certification organization or who has a master's degree in nursing or one of the

behavioral sciences or related fields from an accredited college or university or its equivalent, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(3) in clinical social work, a person licensed as an independent clinical social worker under chapter 148D, or a person with a master's degree in social work from an accredited college or university, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(4) in psychology, an individual licensed by the Board of Psychology under sections 148.88 to 148.98, who has stated to the Board of Psychology competencies in the diagnosis and treatment of mental illness;

(5) in psychiatry, a physician licensed under chapter 147 and certified by the American Board of Psychiatry and Neurology or eligible for board certification in psychiatry; ~~and~~

(6) in marriage and family therapy, the mental health professional must be a marriage and family therapist licensed under sections 148B.29 to 148B.39, with at least two years of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness; and

(7) in licensed professional clinical counseling, the mental health professional shall be a licensed professional clinical counselor under section 148B.5301 with at least 4,000 hours of postmaster's supervised experience in the delivery of clinical services in the treatment of mental illness.

**Sec. 25. AUTISM SPECTRUM DISORDER TASK FORCE.**

(a) The Autism Spectrum Disorder Task Force is composed of 15 members, appointed as follows:

(1) two members of the senate appointed by the Subcommittee on Committees of the Committee on Rules and Administration, one of whom must be a member of the minority;

(2) two members of the house of representatives, one from the majority party, appointed by the speaker of the house, and one from the minority party, appointed by the minority leader;

(3) two members appointed by the legislature, with regard to geographic diversity in the state, who are parents of children with autism spectrum disorder (ASD); one member shall be appointed by the senate Subcommittee on Committees of the Committee on Rules and Administration making appointments for the senate; and one member shall be appointed by the speaker of the house making the appointments for the house;

(4) one member appointed by the Minnesota chapter of the American Academy of Pediatrics who is a general primary care pediatrician;

(5) one member appointed by the Minnesota Academy of Family Physicians who is a family practice physician;

(6) one member appointed by the Minnesota Psychological Association who is a neuropsychologist;

(7) one member appointed by the directors of public school student support services;

(8) one member appointed by the Somali American Autism Foundation;



- (9) one member appointed by the ARC of Minnesota;
- (10) one member appointed by the Autism Society of Minnesota;
- (11) one member appointed by the Parent Advocacy Coalition for Educational Rights; and
- (12) one member appointed by the Minnesota Council of Health Plans.

Appointments must be made by September 1, 2009. The Legislative Coordinating Commission shall provide meeting space for the task force. The senate member appointed by the minority leader of the senate shall convene the first meeting of the task force no later than October 1, 2009. The task force shall elect a chair at the first meeting.

(b) If federal or state funding is available, the commissioners of education, employment and economic development, health, and human services shall provide assistance to the task force.

(c) The task force shall develop recommendations and report on the following topics:

- (1) ways to improve services provided by all state and political subdivisions;
- (2) sources of public and private funding available for treatment and ways to improve efficiency in the use of these funds;
- (3) methods to improve coordination in the delivery of service between public and private agencies, health providers, and schools, and to address any geographic discrepancies in the delivery of services;

(4) increasing the availability of and the training for medical providers and educators who identify and provide services to individuals with ASD; and

(5) treatment options supported by peer-reviewed, established scientific research for individuals with ASD.

(d) The task force shall coordinate with existing efforts at the Departments of Education, Health, Human Services, and Employment and Economic Development related to ASD.

(e) By January 15 of each year, the task force shall provide a report regarding its findings and consideration of the topics listed under paragraph (c), and the action taken under paragraph (d), including draft legislation if necessary, to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services.

(f) This section expires June 30, 2011.

#### **Sec. 26. STATE-COUNTY CHEMICAL HEALTH CARE HOME PILOT PROJECT.**

Subdivision 1. **Establishment; purpose.** There is established a state-county chemical health care home pilot project. The purpose of the pilot project is for the Department of Human Services and counties to authentically and creatively work in partnership to redesign the current chemical health service delivery system in a way that promotes greater accountability, productivity, and results in the delivery of state chemical dependency services. The pilot project or projects must look to provide appropriate flexibility in a way that ensures timely access to needed services as well as better aligning systems and services to offer the most appropriate level of chemical health care services to the client. This may include, but is not limited to, looking into new governance agreements, performance

agreements, or service level agreements. Pilot projects must maintain eligibility requirements for the consolidated chemical dependency treatment fund, continue to meet the requirements of Minnesota Rules, parts 9530.6600 to 9530.6655 (also known as Rule 25) and Minnesota Rules, parts 9530.6405 to 9530.6505 (also known as Rule 31), and must not put at risk current and future federal funding toward chemical health-related services in the state of Minnesota.

Subd. 2. **Workgroup; report.** A workgroup must be convened on or before July 15, 2009, consisting of representatives from the Department of Human Services and potential participating counties to develop draft proposals for pilot projects meeting the requirements of this section. The workgroup shall report back to the legislative committees with jurisdiction over chemical health by January 15, 2010, for potential approval of one metro and one nonmetro county pilot project to be implemented beginning July 10, 2010.

Subd. 3. **Report.** The Department of Human Services shall evaluate the efficacy and feasibility of the pilot projects and report the results of that evaluation to the legislative committees having jurisdiction over chemical health by June 30, 2011. Expansion of pilot projects may occur only if the department's report finds the pilot projects effective.

Subd. 4. **Expiration.** This section expires June 30, 2012.

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

## ARTICLE 8

### CONTINUING CARE

Section 1. Minnesota Statutes 2008, section 144.0724, subdivision 2, is amended to read:

Subd. 2. **Definitions.** For purposes of this section, the following terms have the meanings given.

(a) "Assessment reference date" means the last day of the minimum data set observation period. The date sets the designated endpoint of the common observation period, and all minimum data set items refer back in time from that point.

(b) "Case mix index" means the weighting factors assigned to the RUG-III classifications.

(c) "Index maximization" means classifying a resident who could be assigned to more than one category, to the category with the highest case mix index.

(d) "Minimum data set" means the assessment instrument specified by the Centers for Medicare and Medicaid Services and designated by the Minnesota Department of Health.

(e) "Representative" means a person who is the resident's guardian or conservator, the person authorized to pay the nursing home expenses of the resident, a representative of the nursing home ombudsman's office whose assistance has been requested, or any other individual designated by the resident.

(f) "Resource utilization groups" or "RUG" means the system for grouping a nursing facility's residents according to their clinical and functional status identified in data supplied by the facility's minimum data set.

(g) "Activities of daily living" means grooming, dressing, bathing, transferring, mobility,

positioning, eating, and toileting.

(h) "Nursing facility level of care determination" means the assessment process that results in a determination of a resident's or prospective resident's need for nursing facility level of care as established in subdivision 11 for purposes of medical assistance payment of long-term care services for:

- (1) nursing facility services under section 256B.434 or 256B.441;
- (2) elderly waiver services under section 256B.0915;
- (3) CADI and TBI waiver services under section 256B.49; and
- (4) state payment of alternative care services under section 256B.0913.

**EFFECTIVE DATE.** The section is effective January 1, 2011.

Sec. 2. Minnesota Statutes 2008, section 144.0724, subdivision 4, is amended to read:

Subd. 4. **Resident assessment schedule.** (a) A facility must conduct and electronically submit to the commissioner of health case mix assessments that conform with the assessment schedule defined by Code of Federal Regulations, title 42, section 483.20, and published by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services, in the Long Term Care Assessment Instrument User's Manual, version 2.0, October 1995, and subsequent clarifications made in the Long-Term Care Assessment Instrument Questions and Answers, version 2.0, August 1996. The commissioner of health may substitute successor manuals or question and answer documents published by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services, to replace or supplement the current version of the manual or document.

(b) The assessments used to determine a case mix classification for reimbursement include the following:

- (1) a new admission assessment must be completed by day 14 following admission;
- (2) an annual assessment must be completed within 366 days of the last comprehensive assessment;
- (3) a significant change assessment must be completed within 14 days of the identification of a significant change; and
- (4) the second quarterly assessment following either a new admission assessment, an annual assessment, or a significant change assessment, and all quarterly assessments beginning October 1, 2006. Each quarterly assessment must be completed within 92 days of the previous assessment.

(c) In addition to the assessments listed in paragraph (b), the assessments used to determine nursing facility level of care include the following:

- (1) preadmission screening completed under section 256B.0911, subdivision 4a, by a county, tribe, or managed care organization under contract with the Department of Human Services; and
- (2) a face-to-face long-term care consultation assessment completed under section 256B.0911, subdivision 3a, 3b, or 4d, by a county, tribe, or managed care organization under contract with the

Department of Human Services.

**EFFECTIVE DATE.** The section is effective January 1, 2011.

Sec. 3. Minnesota Statutes 2008, section 144.0724, subdivision 8, is amended to read:

**Subd. 8. Request for reconsideration of resident classifications.** (a) The resident, or resident's representative, or the nursing facility or boarding care home may request that the commissioner of health reconsider the assigned reimbursement classification. The request for reconsideration must be submitted in writing to the commissioner within 30 days of the day the resident or the resident's representative receives the resident classification notice. The request for reconsideration must include the name of the resident, the name and address of the facility in which the resident resides, the reasons for the reconsideration, the requested classification changes, and documentation supporting the requested classification. The documentation accompanying the reconsideration request is limited to documentation which establishes that the needs of the resident at the time of the assessment justify a classification which is different than the classification established by the commissioner of health.

(b) Upon request, the nursing facility must give the resident or the resident's representative a copy of the assessment form and the other documentation that was given to the commissioner of health to support the assessment findings. The nursing facility shall also provide access to and a copy of other information from the resident's record that has been requested by or on behalf of the resident to support a resident's reconsideration request. A copy of any requested material must be provided within three working days of receipt of a written request for the information. If a facility fails to provide the material within this time, it is subject to the issuance of a correction order and penalty assessment under sections 144.653 and 144A.10. Notwithstanding those sections, any correction order issued under this subdivision must require that the nursing facility immediately comply with the request for information and that as of the date of the issuance of the correction order, the facility shall forfeit to the state a \$100 fine for the first day of noncompliance, and an increase in the \$100 fine by \$50 increments for each day the noncompliance continues.

(c) In addition to the information required under paragraphs (a) and (b), a reconsideration request from a nursing facility must contain the following information: (i) the date the reimbursement classification notices were received by the facility; (ii) the date the classification notices were distributed to the resident or the resident's representative; and (iii) a copy of a notice sent to the resident or to the resident's representative. This notice must inform the resident or the resident's representative that a reconsideration of the resident's classification is being requested, the reason for the request, that the resident's rate will change if the request is approved by the commissioner, the extent of the change, that copies of the facility's request and supporting documentation are available for review, and that the resident also has the right to request a reconsideration. If the facility fails to provide the required information with the reconsideration request, the request must be denied, and the facility may not make further reconsideration requests on that specific reimbursement classification.

(d) Reconsideration by the commissioner must be made by individuals not involved in reviewing the assessment, audit, or reconsideration that established the disputed classification. The reconsideration must be based upon the initial assessment and upon the information provided to the commissioner under paragraphs (a) and (b). If necessary for evaluating the reconsideration request, the commissioner may conduct on-site reviews. Within 15 working days of receiving the request

for reconsideration, the commissioner shall affirm or modify the original resident classification. The original classification must be modified if the commissioner determines that the assessment resulting in the classification did not accurately reflect the needs or assessment characteristics of the resident at the time of the assessment. The resident and the nursing facility or boarding care home shall be notified within five working days after the decision is made. A decision by the commissioner under this subdivision is the final administrative decision of the agency for the party requesting reconsideration.

(e) The resident classification established by the commissioner shall be the classification that applies to the resident while the request for reconsideration is pending. If a request for reconsideration applies to an assessment used to determine nursing facility level of care under subdivision 4, paragraph (c), the resident shall continue to be eligible for nursing facility level of care while the request for reconsideration is pending.

(f) The commissioner may request additional documentation regarding a reconsideration necessary to make an accurate reconsideration determination.

**EFFECTIVE DATE.** The section is effective January 1, 2011.

Sec. 4. Minnesota Statutes 2008, section 144.0724, is amended by adding a subdivision to read:

Subd. 11. **Nursing facility level of care.** (a) For purposes of medical assistance payment of long-term care services, a recipient must be determined, using assessments defined in subdivision 4, to meet one of the following nursing facility level of care criteria:

(1) the person needs the assistance of another person or constant supervision to begin and complete at least four of the following activities of living: bathing, bed mobility, dressing, eating, grooming, toileting, transferring, and walking;

(2) the person needs the assistance of another person or constant supervision to begin and complete toileting, transferring, or positioning and the assistance cannot be scheduled;

(3) the person has significant difficulty with memory, using information, daily decision making, or behavioral needs that require intervention;

(4) the person has had a qualifying nursing facility stay of at least 90 days; or

(5) the person is determined to be at risk for nursing facility admission or readmission through a face-to-face long-term care consultation assessment as specified in section 256B.0911, subdivision 3a, 3b, or 4d, by a county, tribe, or managed care organization under contract with the Department of Human Services. The person is considered at risk under this clause if the person currently lives alone or will live alone upon discharge and also meets one of the following criteria:

(i) the person has experienced a fall resulting in a fracture;

(ii) the person has been determined to be at risk of maltreatment or neglect, including self-neglect; or

(iii) the person has a sensory impairment that substantially impacts functional ability and maintenance of a community residence.

(b) The assessment used to establish medical assistance payment for nursing facility services

must be the most recent assessment performed under subdivision 4, paragraph (b), that occurred no more than 90 calendar days before the effective date of medical assistance eligibility for payment of long-term care services. In no case shall medical assistance payment for long-term care services occur prior to the date of the determination of nursing facility level of care.

(c) The assessment used to establish medical assistance payment for long-term care services provided under sections 256B.0915 and 256B.49 and alternative care payment for services provided under section 256B.0913 must be the most recent face-to-face assessment performed under section 256B.0911, subdivision 3a, that occurred no more than 60 calendar days before the effective date of medical assistance eligibility for payment of long-term care services.

**EFFECTIVE DATE.** The section is effective January 1, 2011.

Sec. 5. Minnesota Statutes 2008, section 144.0724, is amended by adding a subdivision to read:

Subd. 12. **Appeal of nursing facility level of care determination.** A resident or prospective resident whose level of care determination results in a denial of long-term care services can appeal the determination as outlined in section 256B.0911, subdivision 3a, paragraph (h), clause (7).

**EFFECTIVE DATE.** The section is effective January 1, 2011.

Sec. 6. Minnesota Statutes 2008, section 144A.073, is amended by adding a subdivision to read:

Subd. 12. **Extension of approval of moratorium exception projects.** Notwithstanding subdivision 3, the commissioner of health shall extend project approval by an additional 18 months for an approved proposal for an exception to the nursing home licensure and certification moratorium if the proposal was approved under this section between July 1, 2007, and June 30, 2009.

Sec. 7. Minnesota Statutes 2008, section 144A.44, subdivision 2, is amended to read:

Subd. 2. **Interpretation and enforcement of rights.** These rights are established for the benefit of persons who receive home care services. "Home care services" means home care services as defined in section 144A.43, subdivision 3, and unlicensed personal care assistance services, including services covered by medical assistance under section 256B.0625, subdivision 19a. A home care provider may not require a person to surrender these rights as a condition of receiving services. A guardian or conservator or, when there is no guardian or conservator, a designated person, may seek to enforce these rights. This statement of rights does not replace or diminish other rights and liberties that may exist relative to persons receiving home care services, persons providing home care services, or providers licensed under Laws 1987, chapter 378. A copy of these rights must be provided to an individual at the time home care services, including personal care assistance services, are initiated. The copy shall also contain the address and phone number of the Office of Health Facility Complaints and the Office of Ombudsman for Long-Term Care and a brief statement describing how to file a complaint with these offices. Information about how to contact the Office of Ombudsman for Long-Term Care shall be included in notices of change in client fees and in notices where home care providers initiate transfer or discontinuation of services.

Sec. 8. Minnesota Statutes 2008, section 245A.03, is amended by adding a subdivision to read:

Subd. 7. **Licensing moratorium.** (a) The commissioner shall not issue an initial license for child foster care licensed under Minnesota Rules, parts 2960.3000 to 2960.3340, or adult foster care

licensed under Minnesota Rules, parts 9555.5105 to 9555.6265, under this chapter for a physical location that will not be the primary residence of the license holder for the entire period of licensure. If a license is issued during this moratorium, and the license holder changes the license holder's primary residence away from the physical location of the foster care license, the commissioner shall revoke the license according to section 245A.07. Exceptions to the moratorium include:

- (1) foster care settings that are required to be registered under chapter 144D;
- (2) foster care licenses replacing foster care licenses in existence on the effective date of this section and determined to be needed by the commissioner under paragraph (b);
- (3) new foster care licenses determined to be needed by the commissioner under paragraph (b) for the closure of a nursing facility, ICF/MR, or regional treatment center;
- (4) new foster care licenses determined to be needed by the commissioner under paragraph (b) for persons requiring hospital level care; or
- (5) new foster care licenses determined to be needed by the commissioner for the transition of people from personal care assistance to the home and community-based services.

(b) The commissioner shall determine the need for newly licensed foster care homes as defined under this subdivision. As part of the determination, the commissioner shall consider the availability of foster care capacity in the area which the licensee seeks to operate, and the recommendation of the local county board. The determination by the commissioner must be final. A determination of need is not required for a change in ownership at the same address.

(c) Residential settings that would otherwise be subject to the moratorium established in paragraph (a), that are in the process of receiving an adult or child foster care license as of July 1, 2009, shall be allowed to continue to complete the process of receiving an adult or child foster care license. For this paragraph, all of the following conditions must be met to be considered in process of receiving an adult or child foster care license:

- (1) participants have made decisions to move into the residential setting, including documentation in each participant's care plan;
- (2) the provider has purchased housing or has made a financial investment in the property;
- (3) the lead agency has approved the plans, including costs for the residential setting for each individual;
- (4) the completion of the licensing process, including all necessary inspections, is the only remaining component prior to being able to provide services; and
- (5) the needs of the individuals cannot be met within the existing capacity in that county.

To qualify for the process under this paragraph, the lead agency must submit documentation to the commissioner by August 1, 2009, that all of the above criteria are met.

(d) The commissioner shall study the effects of the license moratorium under this subdivision and shall report back to the legislature by January 15, 2011.

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

Sec. 9. Minnesota Statutes 2008, section 245A.11, is amended by adding a subdivision to read:

Subd. 8. **Community residential setting license.** (a) The commissioner shall establish provider standards for residential support services that integrate service standards and the residential setting under one license. The commissioner shall propose statutory language and an implementation plan for licensing requirements for residential support services to the legislature by January 15, 2011.

(b) Providers licensed under chapter 245B, and providing, contracting, or arranging for services in settings licensed as adult foster care under Minnesota Rules, parts 9555.5105 to 9555.6265, or child foster care under Minnesota Rules, parts 2960.3000 to 2960.3340; and meeting the provisions of section 256B.092, subdivision 11, paragraph (b), must be required to obtain a community residential setting license.

Sec. 10. Minnesota Statutes 2008, section 252.46, is amended by adding a subdivision to read:

Subd. 1a. **Day training and habilitation rates.** The commissioner shall establish a statewide rate-setting methodology for all day training and habilitation services. The rate-setting methodology must abide by the principles of transparency and equitability across the state. The methodology must involve a uniform process of structuring rates for each service and must promote quality and participant choice.

Sec. 11. Minnesota Statutes 2008, section 252.50, subdivision 1, is amended to read:

Subdivision 1. **Community-based programs established.** The commissioner shall establish a system of state-operated, community-based programs for persons with developmental disabilities. For purposes of this section, "state-operated, community-based program" means a program administered by the state to provide treatment and habilitation in noninstitutional community settings to persons with developmental disabilities. Employees of the programs, except clients who work within and benefit from these treatment and habilitation programs, must be state employees under chapters 43A and 179A. Although any clients who work within and benefit from these treatment and habilitation programs are not employees under chapters 43A and 179A, the Department of Human Services may consider clients who work within and benefit from these programs employees for federal tax purposes. The establishment of state-operated, community-based programs must be within the context of a comprehensive definition of the role of state-operated services in the state. The role of state-operated services must be defined within the context of a comprehensive system of services for persons with developmental disabilities. State-operated, community-based programs may include, but are not limited to, community group homes, foster care, supportive living services, day training and habilitation programs, and respite care arrangements. The commissioner may operate the pilot projects established under Laws 1985, First Special Session chapter 9, article 1, section 2, subdivision 6, and shall, within the limits of available appropriations, establish additional state-operated, community-based programs for persons with developmental disabilities. State-operated, community-based programs may accept admissions from regional treatment centers, from the person's own home, or from community programs. State-operated, community-based programs offering day program services may be provided for persons with developmental disabilities who are living in state-operated, community-based residential programs until July 1, 2000. No later than 1994, the commissioner, together with family members, counties, advocates, employee representatives, and other interested parties, shall begin planning so that by July 1, 2000, state-operated, community-based residential facilities will be in compliance with section 252.41, subdivision 9.



Sec. 12. Minnesota Statutes 2008, section 256.01, is amended by adding a subdivision to read:

Subd. 29. **State medical review team.** (a) To ensure the timely processing of determinations of disability by the commissioner's state medical review team under sections 256B.055, subdivision 7, paragraph (b), 256B.057, subdivision 9, paragraph (j), and 256B.055, subdivision 12, the commissioner shall review all medical evidence submitted by county agencies with a referral and seek additional information from providers, applicants, and enrollees to support the determination of disability where necessary. Disability shall be determined according to the rules of title XVI and title XIX of the Social Security Act and pertinent rules and policies of the Social Security Administration.

(b) Prior to a denial or withdrawal of a requested determination of disability due to insufficient evidence, the commissioner shall (1) ensure that the missing evidence is necessary and appropriate to a determination of disability, and (2) assist applicants and enrollees to obtain the evidence, including, but not limited to, medical examinations and electronic medical records.

(c) The commissioner shall provide the chairs of the legislative committees with jurisdiction over health and human services finance and budget the following information on the activities of the state medical review team by February 1, 2010, and annually thereafter:

(1) the number of applications to the state medical review team that were denied, approved, or withdrawn;

(2) the average length of time from receipt of the application to a decision;

(3) the number of appeals and appeal results;

(4) for applicants, their age, health coverage at the time of application, hospitalization history within three months of application, and whether an application for Social Security or Supplemental Security Income benefits is pending; and

(5) specific information on the medical certification, licensure, or other credentials of the person or persons performing the medical review determinations and length of time in that position.

Sec. 13. **[256.0281] INTERAGENCY DATA EXCHANGE.**

The Department of Human Services, the Department of Health, and the Office of the Ombudsman for Mental Health and Developmental Disabilities may establish interagency agreements governing the electronic exchange of data on providers and individuals collected, maintained, or used by each agency when such exchange is outlined by each agency in an interagency agreement to accomplish the purposes in clauses (1) to (4):

(1) to improve provider enrollment processes for home and community-based services and state plan home care services;

(2) to improve quality management of providers between state agencies;

(3) to establish and maintain provider eligibility to participate as providers under Minnesota health care programs; or

(4) to meet the quality assurance reporting requirements under federal law under section 1915(c) of the Social Security Act related to home and community-based waiver programs.

Each interagency agreement must include provisions to ensure anonymity of individuals, including mandated reporters, and must outline the specific uses of and access to shared data within each agency. Electronic interfaces between source data systems developed under these interagency agreements must incorporate these provisions as well as other HIPPA provisions related to individual data.

Sec. 14. Minnesota Statutes 2008, section 256.476, subdivision 5, is amended to read:

Subd. 5. **Reimbursement, allocations, and reporting.** (a) For the purpose of transferring persons to the consumer support grant program from the family support program and personal care assistant services, home health aide services, or private duty nursing services, the amount of funds transferred by the commissioner between the family support program account, the medical assistance account, or the consumer support grant account shall be based on each county's participation in transferring persons to the consumer support grant program from those programs and services.

(b) At the beginning of each fiscal year, county allocations for consumer support grants shall be based on:

(1) the number of persons to whom the county board expects to provide consumer supports grants;

(2) their eligibility for current program and services;

(3) the ~~amount of nonfederal dollars~~ monthly grant levels allowed under subdivision 11; and

(4) projected dates when persons will start receiving grants. County allocations shall be adjusted periodically by the commissioner based on the actual transfer of persons or service openings, and the ~~nonfederal dollars monthly grant levels~~ monthly grant levels associated with those persons or service openings, to the consumer support grant program.

(c) The amount of funds transferred by the commissioner from the medical assistance account for an individual may be changed if it is determined by the county or its agent that the individual's need for support has changed.

(d) The authority to utilize funds transferred to the consumer support grant account for the purposes of implementing and administering the consumer support grant program will not be limited or constrained by the spending authority provided to the program of origination.

(e) The commissioner may use up to five percent of each county's allocation, as adjusted, for payments for administrative expenses, to be paid as a proportionate addition to reported direct service expenditures.

(f) The county allocation for each person or the person's legal representative or other authorized representative cannot exceed the amount allowed under subdivision 11.

(g) The commissioner may recover, suspend, or withhold payments if the county board, local agency, or grantee does not comply with the requirements of this section.

(h) Grant funds unexpended by consumers shall return to the state once a year. The annual return of unexpended grant funds shall occur in the quarter following the end of the state fiscal year.

Sec. 15. Minnesota Statutes 2008, section 256.476, subdivision 11, is amended to read:

Subd. 11. **Consumer support grant program after July 1, 2001.** ~~(a)~~ Effective July 1, 2001, the commissioner shall allocate consumer support grant resources to serve additional individuals based on a review of Medicaid authorization and payment information of persons eligible for a consumer support grant from the most recent fiscal year. The commissioner shall use the following methodology to calculate maximum allowable monthly consumer support grant levels:

(1) For individuals whose program of origination is medical assistance home care under sections 256B.0651 and 256B.0653 to 256B.0656, the maximum allowable monthly grant levels are calculated by:

(i) determining ~~the nonfederal share~~ 50 percent of the average service authorization for each home care rating;

(ii) calculating the overall ratio of actual payments to service authorizations by program;

(iii) applying the overall ratio to the average service authorization level of each home care rating;

(iv) adjusting the result for any authorized rate increases provided by the legislature; and

(v) adjusting the result for the average monthly utilization per recipient.

(2) The commissioner may review and evaluate the methodology to reflect changes in the home care ~~program's overall ratio of actual payments to service authorizations~~ programs.

~~(b) Effective January 1, 2004, persons previously receiving exception grants will have their grants calculated using the methodology in paragraph (a), clause (1). If a person currently receiving an exception grant wishes to have their home care rating reevaluated, they may request an assessment as defined in section 256B.0651, subdivision 1, paragraph (b).~~

Sec. 16. Minnesota Statutes 2008, section 256.975, subdivision 7, is amended to read:

Subd. 7. **Consumer information and assistance and long-term care options counseling; ~~senior linkage~~ Senior LinkAge Line.** (a) The Minnesota Board on Aging shall operate a statewide ~~information and assistance~~ service to aid older Minnesotans and their families in making informed choices about long-term care options and health care benefits. Language services to persons with limited English language skills may be made available. The service, known as Senior LinkAge Line, must be available during business hours through a statewide toll-free number and must also be available through the Internet.

(b) The service must ~~assist~~ provide long-term care options counseling by assisting older adults, caregivers, and providers in accessing information and options counseling about choices in long-term care services that are purchased through private providers or available through public options. The service must:

(1) develop a comprehensive database that includes detailed listings in both consumer- and provider-oriented formats;

(2) make the database accessible on the Internet and through other telecommunication and media-related tools;

(3) link callers to interactive long-term care screening tools and make these tools available through the Internet by integrating the tools with the database;

(4) develop community education materials with a focus on planning for long-term care and evaluating independent living, housing, and service options;

(5) conduct an outreach campaign to assist older adults and their caregivers in finding information on the Internet and through other means of communication;

(6) implement a messaging system for overflow callers and respond to these callers by the next business day;

(7) link callers with county human services and other providers to receive more in-depth assistance and consultation related to long-term care options;

(8) link callers with quality profiles for nursing facilities and other providers developed by the commissioner of health; ~~and~~

(9) incorporate information about housing with services and consumer rights within the MinnesotaHelp.info network long-term care database to facilitate consumer comparison of services and costs among housing with services establishments and with other in-home services and to support financial self-sufficiency as long as possible. Housing with services establishments and their arranged home care providers shall provide information to the commissioner of human services that is consistent with information required by the commissioner of health under section 144G.06, the Uniform Consumer Information Guide. The commissioner of human services shall provide the data to the Minnesota Board on Aging for inclusion in the MinnesotaHelp.info network long-term care database;

(10) provide long-term care options counseling. Long-term care options counselors shall:

(i) for individuals not eligible for case management under a public program or public funding source, provide interactive decision support under which consumers, family members, or other helpers are supported in their deliberations to determine appropriate long-term care choices in the context of the consumer's needs, preferences, values, and individual circumstances, including implementing a community support plan;

(ii) provide Web-based educational information and collateral written materials to familiarize consumers, family members, or other helpers with the long-term care basics, issues to be considered, and the range of options available in the community;

(iii) provide long-term care futures planning, which means providing assistance to individuals who anticipate having long-term care needs to develop a plan for the more distant future; and

(iv) provide expertise in benefits and financing options for long-term care, including Medicare, long-term care insurance, tax or employer-based incentives, reverse mortgages, private pay options, and ways to access low or no-cost services or benefits through volunteer-based or charitable programs; and

(11) using risk management and support planning protocols, provide long-term care options counseling to current residents of nursing homes deemed appropriate for discharge by the commissioner. In order to meet this requirement, the commissioner shall provide designated Senior

LinkAge Line contact centers with a list of nursing home residents appropriate for discharge planning via a secure Web portal. Senior LinkAge Line shall provide these residents, if they indicate a preference to receive long-term care options counseling, with initial assessment, review of risk factors, independent living support consultation, or referral to:

(i) services under section 256B.0911, subdivision 3;

(ii) designated care coordinators of contracted entities under section 256B.035 for persons who are enrolled in a managed care plan; or

(iii) the long-term care consultation team for those who are appropriate for relocation service coordination due to high-risk factors or psychological or physical disability.

~~(c) The Minnesota Board on Aging shall conduct an evaluation of the effectiveness of the statewide information and assistance, and submit this evaluation to the legislature by December 1, 2002. The evaluation must include an analysis of funding adequacy, gaps in service delivery, continuity in information between the service and identified linkages, and potential use of private funding to enhance the service.~~

Sec. 17. Minnesota Statutes 2008, section 256B.055, subdivision 7, is amended to read:

Subd. 7. **Aged, blind, or disabled persons.** (a) Medical assistance may be paid for a person who meets the categorical eligibility requirements of the supplemental security income program or, who would meet those requirements except for excess income or assets, and who meets the other eligibility requirements of this section.

(b) Following a determination that the applicant is not aged or blind and does not meet any other category of eligibility for medical assistance and has not been determined disabled by the Social Security Administration, applicants under this subdivision shall be referred to the commissioner's state medical review team for a determination of disability.

Sec. 18. Minnesota Statutes 2008, section 256B.0625, subdivision 6a, is amended to read:

Subd. 6a. **Home health services.** Home health services are those services specified in Minnesota Rules, part 9505.0295 and sections 256B.0651 and 256B.0653. Medical assistance covers home health services at a recipient's home residence. Medical assistance does not cover home health services for residents of a hospital, nursing facility, or intermediate care facility, unless the commissioner of human services has ~~prior~~ authorized skilled nurse visits for less than 90 days for a resident at an intermediate care facility for persons with developmental disabilities, to prevent an admission to a hospital or nursing facility or unless a resident who is otherwise eligible is on leave from the facility and the facility either pays for the home health services or forgoes the facility per diem for the leave days that home health services are used. Home health services must be provided by a Medicare certified home health agency. All nursing and home health aide services must be provided according to sections 256B.0651 to ~~256B.0656~~ 256B.0653.

Sec. 19. Minnesota Statutes 2008, section 256B.0625, subdivision 7, is amended to read:

Subd. 7. **Private duty nursing.** Medical assistance covers private duty nursing services in a recipient's home. Recipients who are authorized to receive private duty nursing services in their home may use approved hours outside of the home during hours when normal life activities take them outside of their home. To use private duty nursing services at school, the recipient

or responsible party must provide written authorization in the care plan identifying the chosen provider and the daily amount of services to be used at school. Medical assistance does not cover private duty nursing services for residents of a hospital, nursing facility, intermediate care facility, or a health care facility licensed by the commissioner of health, except as authorized in section 256B.64 for ventilator-dependent recipients in hospitals or unless a resident who is otherwise eligible is on leave from the facility and the facility either pays for the private duty nursing services or forgoes the facility per diem for the leave days that private duty nursing services are used. Total hours of service and payment allowed for services outside the home cannot exceed that which is otherwise allowed in an in-home setting according to sections 256B.0651 and ~~256B.0653~~ 256B.0654 to 256B.0656. All private duty nursing services must be provided according to the limits established under sections 256B.0651 and 256B.0653 to 256B.0656. Private duty nursing services may not be reimbursed if the nurse is the family foster care provider of a recipient who is under age 18, unless allowed under section 256B.0654, subdivision 4.

Sec. 20. Minnesota Statutes 2008, section 256B.0625, subdivision 19a, is amended to read:

Subd. 19a. **Personal care ~~assistant~~ assistance services.** Medical assistance covers personal care ~~assistant~~ assistance services in a recipient's home. Effective January 1, 2010, to qualify for personal care ~~assistant~~ assistance services, a recipient must require assistance and be determined dependent in one activity of daily living as defined in section 256B.0659, subdivision 1, paragraph (b), or in a Level I behavior as defined in section 256B.0659, subdivision 1, paragraph (c). Beginning July 1, 2011, to qualify for personal care assistance services, a recipient must require assistance and be determined dependent in at least two activities of daily living as defined in section 256B.0659. Recipients or responsible parties must be able to identify the recipient's needs, direct and evaluate task accomplishment, and provide for health and safety. Approved hours may be used outside the home when normal life activities take them outside the home. To use personal care ~~assistant~~ assistance services at school, the recipient or responsible party must provide written authorization in the care plan identifying the chosen provider and the daily amount of services to be used at school. Total hours for services, whether actually performed inside or outside the recipient's home, cannot exceed that which is otherwise allowed for personal care ~~assistant~~ assistance services in an in-home setting according to sections 256B.0651 and ~~256B.0653~~ to 256B.0656. Medical assistance does not cover personal care ~~assistant~~ assistance services for residents of a hospital, nursing facility, intermediate care facility, health care facility licensed by the commissioner of health, or unless a resident who is otherwise eligible is on leave from the facility and the facility either pays for the personal care ~~assistant~~ assistance services or forgoes the facility per diem for the leave days that personal care ~~assistant~~ assistance services are used. All personal care ~~assistant~~ assistance services must be provided according to sections 256B.0651 and ~~256B.0653~~ to 256B.0656. Personal care ~~assistant~~ assistance services may not be reimbursed if the personal care assistant is the spouse or legal paid guardian of the recipient or the parent of a recipient under age 18, or the responsible party or the family foster care provider of a recipient who cannot direct the recipient's own care unless, in the case of a foster care provider, a county or state case manager visits the recipient as needed, but not less than every six months, to monitor the health and safety of the recipient and to ensure the goals of the care plan are met. ~~Parents of adult recipients, adult children of the recipient or adult siblings of the recipient may be reimbursed for personal care assistant services, if they are granted a waiver under sections 256B.0651 and 256B.0653 to 256B.0656. Notwithstanding the provisions of section 256B.0655, subdivision 2, paragraph (b), clause (4) 256B.0659, the noncorporate legal unpaid guardian or conservator of an adult, who is not the responsible party and not the personal care provider organization, may~~

~~be granted a hardship waiver under sections 256B.0651 and 256B.0653 to 256B.0656, to be reimbursed to provide personal care assistant assistance services to the recipient if the guardian or conservator meets all criteria for a personal care assistant according to section 256B.0659, and shall not be considered to have a service provider interest for purposes of participation on the screening team under section 256B.092, subdivision 7.~~

Sec. 21. Minnesota Statutes 2008, section 256B.0625, subdivision 19c, is amended to read:

~~Subd. 19c. **Personal care.** Medical assistance covers personal care assistant assistance services provided by an individual who is qualified to provide the services according to subdivision 19a and sections 256B.0651 and 256B.0653 to 256B.0656, where the services have a statement of need by a physician, provided in accordance with a plan, and are supervised by the recipient or a qualified professional. The physician's statement of need for personal care assistant services shall be documented on a form approved by the commissioner and include the diagnosis or condition of the person that results in a need for personal care assistant services and be updated when the person's medical condition requires a change, but at least annually if the need for personal care assistant services is ongoing.~~

~~"Qualified professional" means a mental health professional as defined in section 245.462, subdivision 18, or 245.4871, subdivision 27; or a registered nurse as defined in sections 148.171 to 148.285, or a licensed social worker as defined in section 148B.21, or a qualified developmental disabilities specialist undersection 245B.07, subdivision 4. As part of the assessment, the county public health nurse will assist the recipient or responsible party to identify the most appropriate person to provide supervision of the personal care assistant. The qualified professional shall perform the duties described required in Minnesota Rules, part 9505.0335, subpart 4 section 256B.0659.~~

Sec. 22. Minnesota Statutes 2008, section 256B.0641, subdivision 3, is amended to read:

~~Subd. 3. **Facility in receivership.** Subdivision 2 does not apply to the change of ownership of a facility to a nonrelated organization while the facility to be sold, transferred or reorganized is in receivership under section 144A.14, 144A.15, 245A.12, or 245A.13, and the commissioner during the receivership has not determined the need to place residents of the facility into a newly constructed or newly established facility. Nothing in this subdivision limits the liability of a former owner.~~

Sec. 23. Minnesota Statutes 2008, section 256B.0651, is amended to read:

#### **256B.0651 HOME CARE SERVICES.**

~~Subdivision 1. **Definitions.** (a) "Activities of daily living" includes eating, toileting, grooming, dressing, bathing, transferring, mobility, and positioning. For the purposes of sections 256B.0651 to 256B.0656 and 256B.0659, the terms in paragraphs (b) to (g) have the meanings given.~~

~~(b) "Activities of daily living" has the meaning given in section 256B.0659, subdivision 1, paragraph (b).~~

~~(c) "Assessment" means a review and evaluation of a recipient's need for home care services conducted in person. Assessments for home health agency services shall be conducted by a home health agency nurse. Assessments for medical assistance home care services for developmental disability and alternative care services for developmentally disabled home and community-based~~

waivered recipients may be conducted by the county public health nurse to ensure coordination and avoid duplication. Assessments must be completed on forms provided by the commissioner within 30 days of a request for home care services by a recipient or responsible party.

~~(e)~~ (d) "Home care services" means a health service, determined by the commissioner as medically necessary, that is ordered by a physician and documented in a service plan that is reviewed by the physician at least once every 60 days for the provision of home health services, or private duty nursing, or at least once every 365 days for personal care. Home care services are provided to the recipient at the recipient's residence that is a place other than a hospital or long-term care facility or as specified in section 256B.0625 means medical assistance covered services that are home health agency services, including skilled nurse visits; home health aide visits; physical therapy, occupational therapy, respiratory therapy, and language-speech pathology therapy; private duty nursing; and personal care assistance.

(e) "Home residence," effective January 1, 2010, means a residence owned or rented by the recipient either alone, with roommates of the recipient's choosing, or with an unpaid responsible party or legal representative; or a family foster home where the license holder lives with the recipient and is not paid to provide home care services for the recipient except as allowed under sections 256B.0651, subdivision 9, and 256B.0654, subdivision 4.

~~(d)~~ (f) "Medically necessary" has the meaning given in Minnesota Rules, parts 9505.0170 to 9505.0475.

~~(e)~~ "Telehomecare" means the use of telecommunications technology by a home health care professional to deliver home health care services, within the professional's scope of practice, to a patient located at a site other than the site where the practitioner is located.

(g) "Ventilator-dependent" means an individual who receives mechanical ventilation for life support at least six hours per day and is expected to be or has been dependent on a ventilator for at least 30 consecutive days.

Subd. 2. **Services covered.** Home care services covered under this section and sections 256B.0653 256B.0652 to 256B.0656 and 256B.0659 include:

- (1) nursing services under ~~section~~ sections 256B.0625, subdivision 6a, and 256B.0653;
- (2) private duty nursing services under ~~section~~ sections 256B.0625, subdivision 7, and 256B.0654;
- (3) home health services under ~~section~~ sections 256B.0625, subdivision 6a, and 256B.0653;
- (4) personal care ~~assistant~~ assistance services under ~~section~~ sections 256B.0625, subdivision 19a, and 256B.0659;
- (5) supervision of personal care ~~assistant~~ assistance services provided by a qualified professional under ~~section~~ sections 256B.0625, subdivision 19a, and 256B.0659;
- (6) ~~qualified professional of personal care assistant services under the fiscal intermediary option as specified in section 256B.0655, subdivision 7;~~
- ~~(7)~~ face-to-face assessments by county public health nurses for services under ~~section~~ sections 256B.0625, subdivision 19a, 256B.0655, and 256B.0659; and



~~(8)~~ (7) service updates and review of temporary increases for personal care assistant assistance services by the county public health nurse for services under ~~section~~ sections 256B.0625, subdivision 19a, and 256B.0659.

Subd. 3. **Noncovered home care services.** The following home care services are not eligible for payment under medical assistance:

- ~~(1) skilled nurse visits for the sole purpose of supervision of the home health aide;~~
  - ~~(2) a skilled nursing visit:~~
    - ~~(i) only for the purpose of monitoring medication compliance with an established medication program for a recipient; or~~
    - ~~(ii) to administer or assist with medication administration, including injections, prefilling syringes for injections, or oral medication set up of an adult recipient, when as determined and documented by the registered nurse, the need can be met by an available pharmacy or the recipient is physically and mentally able to self-administer or prefill a medication;~~
  - ~~(3) home care services to a recipient who is eligible for covered services under the Medicare program or any other insurance held by the recipient;~~
  - ~~(4) services to other members of the recipient's household;~~
  - ~~(5) a visit made by a skilled nurse solely to train other home health agency workers;~~
  - ~~(6) any home care service included in the daily rate of the community-based residential facility where the recipient is residing;~~
  - ~~(7) nursing and rehabilitation therapy services that are reasonably accessible to a recipient outside the recipient's place of residence, excluding the assessment, counseling and education, and personal assistant care;~~
  - ~~(8) any home health agency service, excluding personal care assistant services and private duty nursing services, which are performed in a place other than the recipient's residence; and~~
  - ~~(9) Medicare evaluation or administrative nursing visits on dual-eligible recipients that do not qualify for Medicare visit billing.~~
- (1) services provided in a nursing facility, hospital, or intermediate care facility with exceptions in section 256B.0653;
  - (2) services for the sole purpose of monitoring medication compliance with an established medication program for a recipient;
  - (3) home care services for covered services under the Medicare program or any other insurance held by the recipient;
  - (4) services to other members of the recipient's household;
  - (5) any home care service included in the daily rate of the community-based residential facility where the recipient is residing;
  - (6) nursing and rehabilitation therapy services that are reasonably accessible to a recipient

outside the recipient's place of residence, excluding the assessment, counseling and education, and personal assistance care; or

(7) Medicare evaluation or administrative nursing visits on dual-eligible recipients that do not qualify for Medicare visit billing.

Subd. 4. **Prior Authorization; exceptions.** All home care services above the limits in subdivision 11 must receive the commissioner's ~~prior~~ authorization before services begin, except when:

(1) the home care services were required to treat an emergency medical condition that if not immediately treated could cause a recipient serious physical or mental disability, continuation of severe pain, or death. The provider must request retroactive authorization no later than five working days after giving the initial service. The provider must be able to substantiate the emergency by documentation such as reports, notes, and admission or discharge histories;

~~(2) the home care services were provided on or after the date on which the recipient's eligibility began, but before the date on which the recipient was notified that the case was opened. Authorization will be considered if the request is submitted by the provider within 20 working days of the date the recipient was notified that the case was opened; a recipient's medical assistance eligibility has lapsed, is then retroactively reinstated, and an authorization for home care services is completed based on the date of a current assessment, eligibility, and request for authorization;~~

(3) a third-party payor for home care services has denied or adjusted a payment. Authorization requests must be submitted by the provider within 20 working days of the notice of denial or adjustment. A copy of the notice must be included with the request;

(4) the commissioner has determined that a county or state human services agency has made an error; or

~~(5) the professional nurse determines an immediate need for up to 40 skilled nursing or home health aide visits per calendar year and submits a request for authorization within 20 working days of the initial service date, and medical assistance is determined to be the appropriate payer. if a recipient enrolled in managed care experiences a temporary disenrollment from a health plan, the commissioner shall accept the current health plan authorization for personal care assistance services for up to 60 days. The request must be received within the first 30 days of the disenrollment. If the recipient's reenrollment in managed care is after the 60 days and before 90 days, the provider shall request an additional 30-day extension of the current health plan authorization, for a total limit of 90 days from the time of disenrollment.~~

~~Subd. 5. **Retroactive authorization.** A request for retroactive authorization will be evaluated according to the same criteria applied to prior authorization requests.~~

Subd. 6. **Prior Authorization.** (a) The commissioner, or the commissioner's designee, shall review the assessment, ~~service update,~~ request for temporary services, ~~request for flexible use option,~~ service plan, and any additional information that is submitted. The commissioner shall, within 30 days after receiving a complete request, assessment, and service plan, authorize home care services as follows: provided in this section.

~~(a) **Home health services.** (b) All Home health services provided by a home health aide including skilled nurse visits and home health aide visits must be prior authorized by the~~

commissioner or the commissioner's designee. ~~Prior~~ Authorization must be based on medical necessity and cost-effectiveness when compared with other care options. The commissioner must receive the request for authorization of skilled nurse visits and home health aide visits within 20 working days of the start of service. When home health services are used in combination with personal care and private duty nursing, the cost of all home care services shall be considered for cost-effectiveness. ~~The commissioner shall limit home health aide visits to no more than one visit each per day. The commissioner, or the commissioner's designee, may authorize up to two skilled nurse visits per day.~~

~~(b) Ventilator-dependent recipients.~~ (c) If the recipient is ventilator-dependent, the monthly medical assistance authorization for home care services shall not exceed what the commissioner would pay for care at the highest cost hospital designated as a long-term hospital under the Medicare program. For purposes of this paragraph, home care services means all direct care services provided in the home that would be included in the payment for care at the long-term hospital. ~~"Ventilator-dependent" means an individual who receives mechanical ventilation for life support at least six hours per day and is expected to be or has been dependent for at least 30 consecutive days.~~ Recipients who meet the definition of ventilator dependent and the EN home care rating and utilize a combination of home care services are limited up to a total of 24 hours of home care services per day. Additional hours may be authorized when a recipient's assessment indicates a need for two staff to perform activities. Additional time is limited to four hours per day.

Subd. 7. ~~Prior Authorization; time limits.~~ (a) The commissioner or the commissioner's designee shall determine the time period for which a ~~prior~~ an authorization shall be effective and, if flexible use has been requested, whether to allow the flexible use option. If the recipient continues to require home care services beyond the duration of the ~~prior~~ authorization, the home care provider must request a new ~~prior~~ authorization. A personal care provider agency must request a new personal care ~~assistant~~ assistance services assessment, or service update if allowed, at least 60 days prior to the end of the current ~~prior~~ authorization time period. The request for the assessment must be made on a form approved by the commissioner. ~~Under no circumstances, other than the exceptions in subdivision 4, shall a ~~prior~~~~ An authorization must be valid prior to the date the commissioner receives the request or for no more than 12 months.

(b) The amount and type of personal care assistance services authorized based upon the assessment and service plan must remain in effect for the recipient whether the recipient chooses a different provider or enrolls or disenrolls from a managed care plan under section 256B.0659, unless the service needs of the recipient change and new assessment is warranted under section 256B.0655, subdivision 1b.

(c) A recipient who appeals a reduction in previously authorized home care services may continue previously authorized services, other than temporary services under subdivision 8, pending an appeal under section 256.045. The commissioner must ~~provide~~ ensure that the recipient has a copy of the most recent service plan that contains a detailed explanation of why the authorized services which areas of covered personal care assistance tasks are reduced in amount from those requested by the home care provider, and provide notice of the amount of time per day reduced, and the reasons for the reduction in the recipient's notice of denial, termination, or reduction.

Subd. 8. ~~Prior Authorization requests; temporary services.~~ The agency nurse, the independently enrolled private duty nurse, or county public health nurse may request a temporary authorization for home care services ~~by telephone.~~ The commissioner may approve a temporary

level of home care services based on the assessment, and service or care plan information, and primary payer coverage determination information as required. Authorization for a temporary level of home care services including nurse supervision is limited to the time specified by the commissioner, but shall not exceed 45 days, ~~unless extended because the county public health nurse has not completed the required assessment and service plan, or the commissioner's determination has not been made.~~ The level of services authorized under this provision shall have no bearing on a future ~~prior~~ authorization.

Subd. 9. **Prior Authorization for foster care setting.** (a) Home care services provided in an adult or child foster care setting must receive ~~prior~~ authorization by the ~~department~~ commissioner according to the limits established in subdivision 11.

(b) The commissioner may not authorize:

(1) home care services that are the responsibility of the foster care provider under the terms of the foster care placement agreement, difficulty of care rate as of January 1, 2010, and administrative rules;

(2) ~~personal care assistant~~ assistance services when the foster care license holder is also the personal care provider or personal care assistant ~~unless the recipient can direct the recipient's own care, or case management is provided as required in section 256B.0625, subdivision 19a, unless the foster home is the licensed provider's primary residence as defined in section 256B.0625, subdivision 19a; or~~

~~(3) personal care assistant services when the responsible party is an employee of, or under contract with, or has any direct or indirect financial relationship with the personal care provider or personal care assistant, unless case management is provided as required in section 256B.0625, subdivision 19a; or~~

~~(4) (3) personal care assistant and private duty nursing services when the number of foster care residents licensed capacity is greater than four unless the county responsible for the recipient's foster placement made the placement prior to April 1, 1992, requests that personal care assistant and private duty nursing services be provided, and case management is provided as required in section 256B.0625, subdivision 19a.~~

Subd. 10. **Limitation on payments.** ~~Medical assistance payments for home care services shall be limited according to subdivisions 4 to 12 and sections 256B.0654, subdivision 2, and 256B.0655, subdivisions 3 and 4.~~

Subd. 11. **Limits on services without prior authorization.** A recipient may receive the following home care services during a calendar year:

(1) up to two face-to-face assessments to determine a recipient's need for ~~personal care assistant~~ assistance services;

(2) one service update done to determine a recipient's need for ~~personal care assistant~~ assistance services; and

(3) up to nine face-to-face skilled nurse visits.

Subd. 12. **Approval of home care services.** The commissioner or the commissioner's

designee shall determine the medical necessity of home care services, the level of caregiver according to subdivision 2, and the institutional comparison according to subdivisions 4 to 12 and sections 256B.0654, subdivision 2, ~~and~~ 256B.0655, subdivisions 3 and 4, and 256B.0659, the cost-effectiveness of services, and the amount, scope, and duration of home care services reimbursable by medical assistance, based on the assessment, primary payer coverage determination information as required, the service plan, the recipient's age, the cost of services, the recipient's medical condition, and diagnosis or disability. The commissioner may publish additional criteria for determining medical necessity according to section 256B.04.

Subd. 13. **Recovery of excessive payments.** The commissioner shall seek monetary recovery from providers of payments made for services which exceed the limits established in this section and sections 256B.0653 to 256B.0656, and 256B.0659. This subdivision does not apply to services provided to a recipient at the previously authorized level pending an appeal under section 256.045, subdivision 10.

Subd. 14. **Referrals to Medicare providers required.** Home care providers that do not participate in or accept Medicare assignment must refer and document the referral of dual-eligible recipients to Medicare providers when Medicare is determined to be the appropriate payer for services and supplies and equipment. Providers must be terminated from participation in the medical assistance program for failure to make these referrals.

Subd. 15. **Quality assurance for program integrity.** The commissioner shall establish an ongoing quality assurance process for home care services to monitor program integrity, including provider standards and training, consumer surveys, and random reviews of documentation.

Subd. 16. **Oversight of enrolled providers.** The commissioner has the authority to request proof of documentation of meeting provider standards, quality standards of care, correct billing practices, and other information. Failure to comply with or to provide access and information to demonstrate compliance with laws, rules, or policies may result in suspension, denial, or termination of the provider agency's enrollment with the department.

Sec. 24. Minnesota Statutes 2008, section 256B.0652, is amended to read:

**256B.0652. ~~PRIOR~~ AUTHORIZATION AND REVIEW OF HOME CARE SERVICES.**

Subdivision 1. **State coordination.** The commissioner shall supervise the coordination of the ~~prior~~ authorization and review of home care services that are reimbursed by medical assistance.

Subd. 2. **Duties.** (a) The commissioner may contract with or employ ~~qualified registered nurses and~~ necessary support staff, or contract with qualified agencies, to provide home care ~~prior~~ authorization and review services for medical assistance recipients who are receiving home care services.

(b) Reimbursement for the ~~prior~~ authorization function shall be made through the medical assistance administrative authority. The state shall pay the nonfederal share. The functions will be to:

(1) assess the recipient's individual need for services required to be cared for safely in the community;

(2) ensure that a ~~service~~ care plan that meets the recipient's needs is developed by the appropriate

agency or individual;

(3) ensure cost-effectiveness and nonduplication of medical assistance home care services;

(4) recommend the approval or denial of the use of medical assistance funds to pay for home care services;

(5) reassess the recipient's need for and level of home care services at a frequency determined by the commissioner; ~~and~~

(6) conduct on-site assessments when determined necessary by the commissioner and recommend changes to care plans that will provide more efficient and appropriate home care; and

(7) on the department's Web site:

(i) provide a link to MinnesotaHelp.info for a list of enrolled home care agencies with the following information: main office address, contact information for the agency, counties in which services are provided, type of home care services provided, whether the personal care assistance choice option is offered, types of qualified professionals employed, number of personal care assistants employed, and data on staff turnover; and

(ii) post data on home care services including information from both fee-for-service and managed care plans on recipients as available.

(c) In addition, the commissioner or the commissioner's designee may:

(1) review care plans, service plans, and reimbursement data for utilization of services that exceed community-based standards for home care, inappropriate home care services, medical necessity, home care services that do not meet quality of care standards, or unauthorized services and make appropriate referrals within the department or to other appropriate entities based on the findings;

(2) assist the recipient in obtaining services necessary to allow the recipient to remain safely in or return to the community;

(3) coordinate home care services with other medical assistance services under section 256B.0625;

(4) assist the recipient with problems related to the provision of home care services;

(5) assure the quality of home care services; and

(6) assure that all liable third-party payers including, but not limited to, Medicare have been used prior to medical assistance for home care services, ~~including but not limited to, home health agency, elected hospice benefit, waived services, alternative care program services, and personal care services.~~

(d) For the purposes of this section, "home care services" means medical assistance services defined under section 256B.0625, subdivisions 6a, 7, and 19a.

**Subd. 3. Assessment and ~~prior~~ authorization process for persons receiving personal care assistance and developmental disabilities services.** ~~Effective January 1, 1996,~~ For purposes of providing informed choice, coordinating of local planning decisions, and streamlining

administrative requirements, the assessment and ~~prior~~ authorization process for persons receiving both home care and home and community-based waived services for persons with developmental disabilities shall meet the requirements of sections 256B.0651 and 256B.0653 to 256B.0656 with the following exceptions:

(a) Upon request for home care services and subsequent assessment by the public health nurse under sections 256B.0651 and 256B.0653 to 256B.0656, the public health nurse shall participate in the screening process, as appropriate, and, if home care services are determined to be necessary, participate in the development of a service plan coordinating the need for home care and home and community-based waived services with the assigned county case manager, the recipient of services, and the recipient's legal representative, if any.

(b) The public health nurse shall give ~~prior~~ authorization for home care services to the extent that home care services are:

(1) medically necessary;

(2) chosen by the recipient and their legal representative, if any, from the array of home care and home and community-based waived services available;

(3) coordinated with other services to be received by the recipient as described in the service plan; and

(4) provided within the county's reimbursement limits for home care and home and community-based waived services for persons with developmental disabilities.

(c) If the public health agency is or may be the provider of home care services to the recipient, the public health agency shall provide the commissioner of human services with a written plan that specifies how the assessment and ~~prior~~ authorization process will be held separate and distinct from the provision of services.

Sec. 25. Minnesota Statutes 2008, section 256B.0653, is amended to read:

**256B.0653 HOME HEALTH AGENCY ~~COVERED~~ SERVICES.**

Subdivision 1. ~~Homecare; skilled nurse visits~~ Scope. "Skilled nurse visits" are provided in a recipient's residence under a plan of care or service plan that specifies a level of care which the nurse is qualified to provide. These services are:

~~(1) nursing services according to the written plan of care or service plan and accepted standards of medical and nursing practice in accordance with chapter 148;~~

~~(2) services which due to the recipient's medical condition may only be safely and effectively provided by a registered nurse or a licensed practical nurse;~~

~~(3) assessments performed only by a registered nurse; and~~

~~(4) teaching and training the recipient, the recipient's family, or other caregivers requiring the skills of a registered nurse or licensed practical nurse. This section applies to home health agency services including, home health aide, skilled nursing visits, physical therapy, occupational therapy, respiratory therapy, and speech language pathology therapy.~~

Subd. 2. ~~Telehomecare; skilled nurse visits~~ Definitions. ~~Medical assistance covers skilled nurse visits according to section 256B.0625, subdivision 6a, provided via telehomecare, for services which do not require hands-on care between the home care nurse and recipient. The provision of telehomecare must be made via live, two-way interactive audiovisual technology and may be augmented by utilizing store and forward technologies. Store and forward technology includes telehomecare services that do not occur in real time via synchronous transmissions, and that do not require a face-to-face encounter with the recipient for all or any part of any such telehomecare visit. Individually identifiable patient data obtained through real-time or store and forward technology must be maintained as health records according to sections 144.291 to 144.298. If the video is used for research, training, or other purposes unrelated to the care of the patient, the identity of the patient must be concealed. A communication between the home care nurse and recipient that consists solely of a telephone conversation, facsimile, electronic mail, or a consultation between two health care practitioners, is not to be considered a telehomecare visit. Multiple daily skilled nurse visits provided via telehomecare are allowed. Coverage of telehomecare is limited to two visits per day. All skilled nurse visits provided via telehomecare must be prior authorized by the commissioner or the commissioner's designee and will be covered at the same allowable rate as skilled nurse visits provided in person. For the purposes of this section, the following terms have the meanings given.~~

(a) "Assessment" means an evaluation of the recipient's medical need for home health agency services by a registered nurse or appropriate therapist that is conducted within 30 days of a request.

(b) "Home care therapies" means occupational, physical, and respiratory therapy and speech-language pathology services provided in the home by a Medicare certified home health agency.

(c) "Home health agency services" means services delivered in the recipient's home residence, except as specified in section 256B.0625, by a home health agency to a recipient with medical needs due to illness, disability, or physical conditions.

(d) "Home health aide" means an employee of a home health agency who completes medically oriented tasks written in the plan of care for a recipient.

(e) "Home health agency" means a home care provider agency that is Medicare-certified.

(f) "Occupational therapy services" mean the services defined in Minnesota Rules, part 9505.0390.

(g) "Physical therapy services" mean the services defined in Minnesota Rules, part 9505.0390.

(h) "Respiratory therapy services" mean the services defined in chapter 147C and Minnesota Rules, part 4668.0003, subpart 37.

(i) "Speech-language pathology services" mean the services defined in Minnesota Rules, part 9505.0390.

(j) "Skilled nurse visit" means a professional nursing visit to complete nursing tasks required due to a recipient's medical condition that can only be safely provided by a professional nurse to restore and maintain optimal health.

(k) "Store-and-forward technology" means telehomecare services that do not occur in real time



via synchronous transmissions such as diabetic and vital sign monitoring.

(l) "Telehomecare" means the use of telecommunications technology via live, two-way interactive audiovisual technology which may be augmented by store-and-forward technology.

(m) "Telehomecare skilled nurse visit" means a visit by a professional nurse to deliver a skilled nurse visit to a recipient located at a site other than the site where the nurse is located and is used in combination with face-to-face skilled nurse visits to adequately meet the recipient's needs.

~~Subd. 3. **Therapies through home health agencies Home health aide visits.** (a) Medical assistance covers physical therapy and related services, including specialized maintenance therapy. Services provided by a physical therapy assistant shall be reimbursed at the same rate as services performed by a physical therapist when the services of the physical therapy assistant are provided under the direction of a physical therapist who is on the premises. Services provided by a physical therapy assistant that are provided under the direction of a physical therapist who is not on the premises shall be reimbursed at 65 percent of the physical therapist rate. Direction of the physical therapy assistant must be provided by the physical therapist as described in Minnesota Rules, part 9505.0390, subpart 1, item B. The physical therapist and physical therapist assistant may not both bill for services provided to a recipient on the same day.~~

~~(b) Medical assistance covers occupational therapy and related services, including specialized maintenance therapy. Services provided by an occupational therapy assistant shall be reimbursed at the same rate as services performed by an occupational therapist when the services of the occupational therapy assistant are provided under the direction of the occupational therapist who is on the premises. Services provided by an occupational therapy assistant under the direction of an occupational therapist who is not on the premises shall be reimbursed at 65 percent of the occupational therapist rate. Direction of the occupational therapy assistant must be provided by the occupational therapist as described in Minnesota Rules, part 9505.0390, subpart 1, item B. The occupational therapist and occupational therapist assistant may not both bill for services provided to a recipient on the same day.~~

(a) Home health aide visits must be provided by a certified home health aide using a written plan of care that is updated in compliance with Medicare regulations. A home health aide shall provide hands-on personal care, perform simple procedures as an extension of therapy or nursing services, and assist in instrumental activities of daily living as defined in section 256B.0659. Home health aide visits must be provided in the recipient's home.

(b) All home health aide visits must have authorization under section 256B.0652. The commissioner shall limit home health aide visits to no more than one visit per day per recipient.

(c) Home health aides must be supervised by a registered nurse or an appropriate therapist when providing services that are an extension of therapy.

Subd. 4. **Skilled nurse visit services.** (a) Skilled nurse visit services must be provided by a registered nurse or a licensed practical nurse under the supervision of a registered nurse, according to the written plan of care and accepted standards of medical and nursing practice according to chapter 148. Skilled nurse visit services must be ordered by a physician and documented in a plan of care that is reviewed and approved by the ordering physician at least once every 60 days. All skilled nurse visits must be medically necessary and provided in the recipient's home residence except as allowed under section 256B.0625, subdivision 6a.

(b) Skilled nurse visits include face-to-face and telehomecare visits with a limit of up to two visits per day per recipient. All visits must be based on assessed needs.

(c) Telehomecare skilled nurse visits are allowed when the recipient's health status can be accurately measured and assessed without a need for a face-to-face, hands-on encounter. All telehomecare skilled nurse visits must have authorization and are paid at the same allowable rates as face-to-face skilled nurse visits.

(d) The provision of telehomecare must be made via live, two-way interactive audiovisual technology and may be augmented by utilizing store-and-forward technologies. Individually identifiable patient data obtained through real-time or store-and-forward technology must be maintained as health records according to sections 144.291 to 144.298. If the video is used for research, training, or other purposes unrelated to the care of the patient, the identity of the patient must be concealed.

(e) Authorization for skilled nurse visits must be completed under section 256B.0652. A total of nine face-to-face skilled nurses visits per calendar year do not require authorization. All telehomecare skilled nurse visits require authorization.

Subd. 5. **Home care therapies.** (a) Home care therapies include the following: physical therapy, occupational therapy, respiratory therapy, and speech and language pathology therapy services.

(b) Home care therapies must be:

(1) provided in the recipient's residence after it has been determined the recipient is unable to access outpatient therapy;

(2) prescribed, ordered, or referred by a physician and documented in a plan of care and reviewed, according to Minnesota Rules, part 9505.0390;

(3) assessed by an appropriate therapist; and

(4) provided by a Medicare-certified home health agency enrolled as a Medicaid provider agency.

(c) Restorative and specialized maintenance therapies must be provided according to Minnesota Rules, part 9505.0390. Physical and occupational therapy assistants may be used as allowed under Minnesota Rules, part 9505.0390, subpart 1, item B.

(d) For both physical and occupational therapies, the therapist and the therapist's assistant may not both bill for services provided to a recipient on the same day.

Subd. 6. **Noncovered home health agency services.** The following are not eligible for payment under medical assistance as a home health agency service:

(1) telehomecare skilled nurses services that is communication between the home care nurse and recipient that consists solely of a telephone conversation, facsimile, electronic mail, or a consultation between two health care practitioners;

(2) the following skilled nurse visits:

(i) for the purpose of monitoring medication compliance with an established medication program for a recipient;

(ii) administering or assisting with medication administration, including injections, prefilling syringes for injections, or oral medication setup of an adult recipient, when, as determined and documented by the registered nurse, the need can be met by an available pharmacy or the recipient or a family member is physically and mentally able to self-administer or prefill a medication;

(iii) services done for the sole purpose of supervision of the home health aide or personal care assistant;

(iv) services done for the sole purpose to train other home health agency workers;

(v) services done for the sole purpose of blood samples or lab draw when the recipient is able to access these services outside the home; and

(vi) Medicare evaluation or administrative nursing visits required by Medicare;

(3) home health aide visits when the following activities are the sole purpose for the visit: companionship, socialization, household tasks, transportation, and education; and

(4) home care therapies provided in other settings such as a clinic, day program, or as an inpatient or when the recipient can access therapy outside of the recipient's residence.

Sec. 26. Minnesota Statutes 2008, section 256B.0654, is amended to read:

#### **256B.0654 PRIVATE DUTY NURSING.**

Subdivision 1. **Definitions.** ~~(a) "Assessment" means a review and evaluation of a recipient's need for home care services conducted in person. Assessments for private duty nursing shall be conducted by a registered private duty nurse. Assessments for medical assistance home care services for developmental disabilities and alternative care services for developmentally disabled home and community-based waived recipients may be conducted by the county public health nurse to ensure coordination and avoid duplication.~~

~~(b) (a) "Complex and regular private duty nursing care" means:~~

~~(1) complex care is private duty nursing services provided to recipients who are ventilator dependent or for whom a physician has certified that were it not for private duty nursing the recipient would meet the criteria for inpatient hospital intensive care unit (ICU) level of care; and~~

~~(2) regular care is private duty nursing provided to all other recipients.~~

(b) "Private duty nursing" means ongoing professional nursing services by a registered or licensed practical nurse including assessment, professional nursing tasks, and education, based on an assessment and physician orders to maintain or restore optimal health of the recipient.

(c) "Private duty nursing agency" means a medical assistance enrolled provider licensed under chapter 144A to provide private duty nursing services.

(d) "Regular private duty nursing" means nursing services provided to a recipient who is considered stable and not at an inpatient hospital intensive care unit level of care, but may have episodes of instability that are not life threatening.

(e) "Shared private duty nursing" means the provision of nursing services by a private duty nurse to two recipients at the same time and in the same setting.

Subd. 2. **Authorization; private duty nursing services.** (a) All private duty nursing services shall be ~~prior~~ authorized by the commissioner or the commissioner's designee. ~~Prior~~ Authorization for private duty nursing services shall be based on medical necessity and cost-effectiveness when compared with alternative care options. The commissioner may authorize medically necessary private duty nursing services in quarter-hour units when:

(1) the recipient requires more individual and continuous care than can be provided during a skilled nurse visit; or

(2) the cares are outside of the scope of services that can be provided by a home health aide or personal care assistant.

(b) The commissioner may authorize:

(1) up to two times the average amount of direct care hours provided in nursing facilities statewide for case mix classification "K" as established by the annual cost report submitted to the department by nursing facilities in May 1992;

(2) private duty nursing in combination with other home care services up to the total cost allowed under section 256B.0655, subdivision 4;

(3) up to 16 hours per day if the recipient requires more nursing than the maximum number of direct care hours as established in clause (1) and the recipient meets the hospital admission criteria established under Minnesota Rules, parts 9505.0501 to 9505.0540.

(c) The commissioner may authorize up to 16 hours per day of medically necessary private duty nursing services or up to 24 hours per day of medically necessary private duty nursing services until such time as the commissioner is able to make a determination of eligibility for recipients who are cooperatively applying for home care services under the community alternative care program developed under section 256B.49, or until it is determined by the appropriate regulatory agency that a health benefit plan is or is not required to pay for appropriate medically necessary health care services. Recipients or their representatives must cooperatively assist the commissioner in obtaining this determination. Recipients who are eligible for the community alternative care program may not receive more hours of nursing under this section and sections 256B.0651, 256B.0653, ~~256B.0655,~~ and 256B.0656, and 256B.0659 than would otherwise be authorized under section 256B.49.

Subd. 2a. **Private duty nursing services.** (a) Private duty nursing services must be used:

(1) in the recipient's home or outside the home when normal life activities require;

(2) when the recipient requires more individual and continuous care than can be provided during a skilled nurse visit; and

(3) when the care required is outside of the scope of services that can be provided by a home health aide or personal care assistant.

(b) Private duty nursing services must be:

(1) assessed by a registered nurse on a form approved by the commissioner;

(2) ordered by a physician and documented in a plan of care that is reviewed by the physician at least once every 60 days; and

(3) authorized by the commissioner under section 256B.0652.

Subd. 2b. **Noncovered private duty nursing services.** Private duty nursing services do not cover the following:

(1) nursing services by a nurse who is the family foster care provider of a person who has not reached 18 years of age unless allowed under subdivision 4;

(2) nursing services to more than two persons receiving shared private duty nursing services from a private duty nurse in a single setting; and

(3) nursing services provided by a registered nurse or licensed practical nurse who is the recipient's legal guardian or related to the recipient as spouse, parent, or family foster parent whether by blood, marriage, or adoption except as specified in section 256B.0652, subdivision 4.

Subd. 3. **Shared private duty nursing care option.** (a) Medical assistance payments for shared private duty nursing services by a private duty nurse shall be limited according to this subdivision. For the purposes of this section and sections 256B.0651, 256B.0653, 256B.0655, and 256B.0656, "private duty nursing agency" means an agency licensed under chapter 144A to provide private duty nursing services. Unless otherwise provided in this subdivision, all other statutory and regulatory provisions relating to private duty nursing services apply to shared private duty nursing services. Nothing in this subdivision shall be construed to reduce the total number of private duty nursing hours authorized for an individual recipient.

~~(b) Recipients of private duty nursing services may share nursing staff and the commissioner shall provide a rate methodology for shared private duty nursing. For two persons sharing nursing care, the rate paid to a provider shall not exceed 1.5 times the regular private duty nursing rates paid for serving a single individual by a registered nurse or licensed practical nurse. These rates apply only to situations in which both recipients are present and receive shared private duty nursing care on the date for which the service is billed. No more than two persons may receive shared private duty nursing services from a private duty nurse in a single setting.~~

~~(e) (b) Shared private duty nursing care is the provision of nursing services by a private duty nurse to two medical assistance eligible recipients at the same time and in the same setting. This subdivision does not apply when a private duty nurse is caring for multiple recipients in more than one setting.~~

(c) For the purposes of this subdivision, "setting" means:

(1) the home residence or foster care home of one of the individual recipients as defined in section 256B.0651; or

(2) a child care program licensed under chapter 245A or operated by a local school district or private school; or

(3) an adult day care service licensed under chapter 245A; or

(4) outside the home residence or foster care home of one of the recipients when normal life activities take the recipients outside the home.

~~This subdivision does not apply when a private duty nurse is caring for multiple recipients in more than one setting.~~

(d) The private duty nursing agency must offer the recipient the option of shared or one-on-one private duty nursing services. The recipient may withdraw from participating in a shared service arrangement at any time.

~~(d)~~ (e) The recipient or the recipient's legal representative, and the recipient's physician, in conjunction with the ~~home health care~~ private duty nursing agency, shall determine:

(1) whether shared private duty nursing care is an appropriate option based on the individual needs and preferences of the recipient; and

(2) the amount of shared private duty nursing services authorized as part of the overall authorization of nursing services.

~~(e)~~ (f) The recipient or the recipient's legal representative, in conjunction with the private duty nursing agency, shall approve the setting, grouping, and arrangement of shared private duty nursing care based on the individual needs and preferences of the recipients. Decisions on the selection of recipients to share services must be based on the ages of the recipients, compatibility, and coordination of their care needs.

~~(f)~~ (g) The following items must be considered by the recipient or the recipient's legal representative and the private duty nursing agency, and documented in the recipient's health service record:

(1) the additional training needed by the private duty nurse to provide care to two recipients in the same setting and to ensure that the needs of the recipients are met appropriately and safely;

(2) the setting in which the shared private duty nursing care will be provided;

(3) the ongoing monitoring and evaluation of the effectiveness and appropriateness of the service and process used to make changes in service or setting;

(4) a contingency plan which accounts for absence of the recipient in a shared private duty nursing setting due to illness or other circumstances;

(5) staffing backup contingencies in the event of employee illness or absence; and

(6) arrangements for additional assistance to respond to urgent or emergency care needs of the recipients.

~~(g) The provider must offer the recipient or responsible party the option of shared or one-on-one private duty nursing services. The recipient or responsible party can withdraw from participating in a shared service arrangement at any time.~~

~~(h) The private duty nursing agency must document the following in the health service record for each individual recipient sharing private duty nursing care~~ The documentation for shared private duty nursing must be on a form approved by the commissioner for each individual recipient sharing private duty nursing. The documentation must be part of the recipient's health service record and include:

(1) permission by the recipient or the recipient's legal representative for the maximum number of shared nursing care hours per week chosen by the recipient and permission for shared private duty nursing services provided in and outside the recipient's home residence;

~~(2) permission by the recipient or the recipient's legal representative for shared private duty nursing services provided outside the recipient's residence;~~

~~(3) permission by the recipient or the recipient's legal representative for others to receive shared private duty nursing services in the recipient's residence;~~

~~(4) revocation by the recipient or the recipient's legal representative of for the shared private duty nursing care authorization, or the shared care to be provided to others in the recipient's residence, or the shared private duty nursing services to be provided outside permission, or services provided to others in and outside the recipient's residence; and~~

~~(5) (3) daily documentation of the shared private duty nursing services provided by each identified private duty nurse, including:~~

~~(i) the names of each recipient receiving shared private duty nursing services together;~~

~~(ii) the setting for the shared services, including the starting and ending times that the recipient received shared private duty nursing care; and~~

~~(iii) notes by the private duty nurse regarding changes in the recipient's condition, problems that may arise from the sharing of private duty nursing services, and scheduling and care issues.~~

~~(i) Unless otherwise provided in this subdivision, all other statutory and regulatory provisions relating to private duty nursing services apply to shared private duty nursing services.~~

~~Nothing in this subdivision shall be construed to reduce the total number of private duty nursing hours authorized for an individual recipient under subdivision 2.~~

~~(i) The commissioner shall provide a rate methodology for shared private duty nursing. For two persons sharing nursing care, the rate paid to a provider must not exceed 1.5 times the regular private duty nursing rates paid for serving a single individual by a registered nurse or licensed practical nurse. These rates apply only to situations in which both recipients are present and receive shared private duty nursing care on the date for which the service is billed.~~

Subd. 4. **Hardship criteria; private duty nursing.** (a) Payment is allowed for extraordinary services that require specialized nursing skills and are provided by parents of minor children, family foster parents, spouses, and legal guardians who are providing private duty nursing care under the following conditions:

(1) the provision of these services is not legally required of the parents, spouses, or legal guardians;

(2) the services are necessary to prevent hospitalization of the recipient; and

(3) the recipient is eligible for state plan home care or a home and community-based waiver and one of the following hardship criteria are met:

(i) the parent, spouse, or legal guardian resigns from a part-time or full-time job to provide nursing care for the recipient; ~~or~~

(ii) the parent, spouse, or legal guardian goes from a full-time to a part-time job with less compensation to provide nursing care for the recipient; ~~or~~

(iii) the parent, spouse, or legal guardian takes a leave of absence without pay to provide nursing care for the recipient; or

(iv) because of labor conditions, special language needs, or intermittent hours of care needed, the parent, spouse, or legal guardian is needed in order to provide adequate private duty nursing services to meet the medical needs of the recipient.

(b) Private duty nursing may be provided by a parent, spouse, family foster parent, or legal guardian who is a nurse licensed in Minnesota. Private duty nursing services provided by a parent, spouse, family foster parent, or legal guardian cannot be used in lieu of nursing services covered and available under liable third-party payors, including Medicare. The private duty nursing provided by a parent, spouse, family foster parent, or legal guardian must be included in the service plan agreement. Authorized ~~skilled~~ nursing services for a single recipient or recipients with the same residence and provided by the parent, spouse, family foster parent, or legal guardian may not exceed 50 percent of the total approved nursing hours, or eight hours per day, whichever is less, up to a maximum of 40 hours per week. A parent or parents, spouse, family foster parent, or legal guardian shall not provide more than 40 hours of services in a seven-day period. For parents, family foster parents, and legal guardians, 40 hours is the total amount allowed regardless of the number of children or adults who receive services. Nothing in this subdivision precludes the parent's, spouse's, or legal guardian's obligation of assuming the nonreimbursed family responsibilities of emergency backup caregiver and primary caregiver.

(c) A parent, family foster parent, or a spouse may not be paid to provide private duty nursing care if:

(1) the parent or spouse fails to pass a criminal background check according to chapter 245C, ~~or if;~~

(2) it has been determined by the ~~home health~~ private duty nursing agency, the case manager, or the physician that the private duty nursing care provided by the parent, family foster parent, spouse, or legal guardian is unsafe; or

(3) the parent, family foster parent, spouse, or legal guardian do not follow physician orders.

(d) For purposes of this section, "assessment" means a review and evaluation of a recipient's need for home care services conducted in person. Assessments for private duty nursing must be conducted by a registered nurse.

Sec. 27. Minnesota Statutes 2008, section 256B.0655, subdivision 1b, is amended to read:

Subd. 1b. **Assessment.** "Assessment" means a review and evaluation of a recipient's need for home care services conducted in person. Assessments for personal care assistant services shall be conducted by the county public health nurse or a certified public health nurse under contract with the county. ~~A face-to-face~~ An in-person assessment must include: documentation of health status, determination of need, evaluation of service effectiveness, identification of appropriate services, service plan development or modification, coordination of services, referrals and follow-up to appropriate payers and community resources, completion of required reports, recommendation of service authorization, and consumer education. Once the need for personal care assistant services is determined under this section or sections 256B.0651, 256B.0653, 256B.0654, and 256B.0656, the county public health nurse or certified public health nurse under contract with the county is



responsible for communicating this recommendation to the commissioner and the recipient. A ~~face-to-face assessment for personal care assistant services is conducted on those recipients who have never had a county public health nurse assessment.~~ A face-to-face An in-person assessment must occur at least annually or when there is a significant change in the recipient's condition or when there is a change in the need for personal care assistant services. A service update may substitute for the annual face-to-face assessment when there is not a significant change in recipient condition or a change in the need for personal care assistant service. A service update may be completed by telephone, used when there is no need for an increase in personal care assistant services, and used for two consecutive assessments if followed by a face-to-face assessment. A service update must be completed on a form approved by the commissioner. A service update or review for temporary increase includes a review of initial baseline data, evaluation of service effectiveness, redetermination of service need, modification of service plan and appropriate referrals, update of initial forms, obtaining service authorization, and on going consumer education. Assessments must be completed on forms provided by the commissioner within 30 days of a request for home care services by a recipient or responsible party or personal care provider agency.

Sec. 28. Minnesota Statutes 2008, section 256B.0655, subdivision 4, is amended to read:

Subd. 4. **Prior Authorization; personal care assistance and qualified professional.** ~~The commissioner, or the commissioner's designee, shall review the assessment, service update, request for temporary services, request for flexible use option, service plan, and any additional information that is submitted. The commissioner shall, within 30 days after receiving a complete request, assessment, and service plan, authorize home care services as follows:~~

~~(1) (a) All personal care assistant assistance services and, supervision by a qualified professional, if requested by the recipient, and additional services beyond the limits established in section 256B.0651, subdivision 11, must be prior authorized by the commissioner or the commissioner's designee before services begin except for the assessments established in section sections 256B.0651, subdivision 11, and 256B.0911. The authorization for personal care assistance and qualified professional services under section 256B.0659 must be completed within 30 days after receiving a complete request.~~

(b) The amount of personal care assistant assistance services authorized must be based on the recipient's home care rating. The home care rating shall be determined by the commissioner or the commissioner's designee based on information submitted to the commissioner identifying the following:

- (1) total number of dependencies of activities of daily living as defined in section 256B.0659;
- (2) number of complex health-related functions as defined in section 256B.0659; and
- (3) number of behavior descriptions as defined in section 256B.0659.

(c) The methodology to determine total time for personal care assistance services for each home care rating is based on the median paid units per day for each home care rating from fiscal year 2007 data for the personal care assistance program. Each home care rating has a base level of hours assigned. Additional time is added through the assessment and identification of the following:

- (1) 30 additional minutes per day for a dependency in each critical activity of daily living as defined in section 256B.0659;

(2) 30 additional minutes per day for each complex health-related function as defined in section 256B.0659; and

(3) 30 additional minutes per day for each behavior issue as defined in section 256B.0659.

(d) A limit of 96 units of qualified professional supervision may be authorized for each recipient receiving personal care assistance services. A request to the commissioner to exceed this total in a calendar year must be requested by the personal care provider agency on a form approved by the commissioner.

~~A child may not be found to be dependent in an activity of daily living if because of the child's age an adult would either perform the activity for the child or assist the child with the activity and the amount of assistance needed is similar to the assistance appropriate for a typical child of the same age. Based on medical necessity, the commissioner may authorize:~~

~~(A) up to two times the average number of direct care hours provided in nursing facilities for the recipient's comparable case mix level; or~~

~~(B) up to three times the average number of direct care hours provided in nursing facilities for recipients who have complex medical needs or are dependent in at least seven activities of daily living and need physical assistance with eating or have a neurological diagnosis; or~~

~~(C) up to 60 percent of the average reimbursement rate, as of July 1, 1991, for care provided in a regional treatment center for recipients who have Level I behavior, plus any inflation adjustment as provided by the legislature for personal care service; or~~

~~(D) up to the amount the commissioner would pay, as of July 1, 1991, plus any inflation adjustment provided for home care services, for care provided in a regional treatment center for recipients referred to the commissioner by a regional treatment center preadmission evaluation team. For purposes of this clause, home care services means all services provided in the home or community that would be included in the payment to a regional treatment center; or~~

~~(E) up to the amount medical assistance would reimburse for facility care for recipients referred to the commissioner by a preadmission screening team established under section 256B.0911 or 256B.092; and~~

~~(F) a reasonable amount of time for the provision of supervision by a qualified professional of personal care assistant services, if a qualified professional is requested by the recipient or responsible party.~~

~~(2) The number of direct care hours shall be determined according to the annual cost report submitted to the department by nursing facilities. The average number of direct care hours, as established by May 1, 1992, shall be calculated and incorporated into the home care limits on July 1, 1992. These limits shall be calculated to the nearest quarter hour.~~

~~(3) The home care rating shall be determined by the commissioner or the commissioner's designee based on information submitted to the commissioner by the county public health nurse on forms specified by the commissioner. The home care rating shall be a combination of current assessment tools developed under sections 256B.0911 and 256B.501 with an addition for seizure activity that will assess the frequency and severity of seizure activity and with adjustments, additions, and clarifications that are necessary to reflect the needs and conditions of recipients~~

~~who need home care including children and adults under 65 years of age. The commissioner shall establish these forms and protocols under this section and sections 256B.0651, 256B.0653, 256B.0654, and 256B.0656 and shall use an advisory group, including representatives of recipients, providers, and counties, for consultation in establishing and revising the forms and protocols.~~

~~(4) A recipient shall qualify as having complex medical needs if the care required is difficult to perform and because of recipient's medical condition requires more time than community-based standards allow or requires more skill than would ordinarily be required and the recipient needs or has one or more of the following:~~

~~(A) daily tube feedings;~~

~~(B) daily parenteral therapy;~~

~~(C) wound or decubiti care;~~

~~(D) postural drainage, percussion, nebulizer treatments, suctioning, tracheotomy care, oxygen, mechanical ventilation;~~

~~(E) catheterization;~~

~~(F) ostomy care;~~

~~(G) quadriplegia; or~~

~~(H) other comparable medical conditions or treatments the commissioner determines would otherwise require institutional care.~~

~~(5) A recipient shall qualify as having Level I behavior if there is reasonable supporting evidence that the recipient exhibits, or that without supervision, observation, or redirection would exhibit, one or more of the following behaviors that cause, or have the potential to cause:~~

~~(A) injury to the recipient's own body;~~

~~(B) physical injury to other people; or~~

~~(C) destruction of property.~~

~~(6) Time authorized for personal care relating to Level I behavior in paragraph (5), clauses (A) to (C), shall be based on the predictability, frequency, and amount of intervention required.~~

~~(7) A recipient shall qualify as having Level II behavior if the recipient exhibits on a daily basis one or more of the following behaviors that interfere with the completion of personal care assistant services under subdivision 2, paragraph (a):~~

~~(A) unusual or repetitive habits;~~

~~(B) withdrawn behavior; or~~

~~(C) offensive behavior.~~

~~(8) A recipient with a home care rating of Level II behavior in paragraph (7), clauses (A) to (C), shall be rated as comparable to a recipient with complex medical needs under paragraph (4). If a recipient has both complex medical needs and Level II behavior, the home care rating shall be the~~

~~next complex category up to the maximum rating under paragraph (1), clause (B).~~

**EFFECTIVE DATE.** The amendments to paragraphs (a) and (b) are effective January 1, 2010.

Sec. 29. Minnesota Statutes 2008, section 256B.0657, subdivision 8, is amended to read:

Subd. 8. **Self-directed budget requirements.** The budget for the provision of the self-directed service option shall be equal to the greater of either established based on:

(1) the annual amount of personal care assistant services under section 256B.0655 that the recipient has used in the most recent 12-month period assessed personal care assistance units, not to exceed the maximum number of personal care assistance units available, as determined by section 256B.0655; or and

(2) the amount determined using the consumer support grant methodology under section 256.476, subdivision 11, except that the budget amount shall include the federal and nonfederal share of the average service costs. the personal care assistance unit rate:

(i) with a reduction to the unit rate to pay for a program administrator as defined in subdivision 10; and

(ii) an additional adjustment to the unit rate as needed to ensure cost neutrality for the state.

Sec. 30. Minnesota Statutes 2008, section 256B.0657, is amended by adding a subdivision to read:

Subd. 12. **Enrollment and evaluation.** Enrollment in the self-directed supports option is available to current personal care assistance recipients upon annual personal care assistance reassessment, with a maximum enrollment of 1,000 people in the first fiscal year of implementation and an additional 1,000 people in the second fiscal year. The commissioner shall evaluate the self-directed supports option during the first two years of implementation and make any necessary changes prior to the option becoming available statewide.

Sec. 31. **[256B.0659] PERSONAL CARE ASSISTANCE PROGRAM.**

Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in paragraphs (b) to (p) have the meanings given unless otherwise provided in text.

(b) "Activities of daily living" means grooming, dressing, bathing, transferring, mobility, positioning, eating, and toileting.

(c) "Behavior," effective January 1, 2010, means a category to determine the home care rating and is based on the criteria found in this section. "Level I behavior" means physical aggression towards self, others, or destruction of property that requires the immediate response of another person.

(d) "Complex health-related needs," effective January 1, 2010, means a category to determine the home care rating and is based on the criteria found in this section.

(e) "Critical activities of daily living," effective January 1, 2010, means transferring, mobility, eating, and toileting.

(f) "Dependency in activities of daily living" means a person requires assistance to begin and

complete one or more of the activities of daily living.

(g) "Health-related procedures and tasks" means procedures and tasks that can be delegated or assigned by a licensed health care professional under state law to be performed by a personal care assistant.

(h) "Instrumental activities of daily living" means activities to include meal planning and preparation; basic assistance with paying bills; shopping for food, clothing, and other essential items; performing household tasks integral to the personal care assistance services; communication by telephone and other media; and traveling, including to medical appointments and to participate in the community.

(i) "Managing employee" has the same definition as Code of Federal Regulations, title 42, section 455.

(j) "Qualified professional" means a professional providing supervision of personal care assistance services and staff as defined in section 256B.0625, subdivision 19c.

(k) "Personal care assistance provider agency" means a medical assistance enrolled provider that provides or assists with providing personal care assistance services and includes personal care assistance provider organizations, personal care assistance choice agency, class A licensed nursing agency, and Medicare-certified home health agency.

(l) "Personal care assistant" or "PCA" means an individual employed by a personal care assistance agency who provides personal care assistance services.

(m) "Personal care assistance care plan" means a written description of personal care assistance services developed by the personal care assistance provider according to the service plan.

(n) "Responsible party" means an individual who is capable of providing the support necessary to assist the recipient to live in the community.

(o) "Self-administered medication" means medication taken orally, by injection or insertion, or applied topically without the need for assistance.

(p) "Service plan" means a written summary of the assessment and description of the services needed by the recipient.

Subd. 2. **Personal care assistance services; covered services.** (a) The personal care assistance services eligible for payment include services and supports furnished to an individual, as needed, to assist in:

- (1) activities of daily living;
- (2) health-related procedures and tasks;
- (3) observation and redirection of behaviors; and
- (4) instrumental activities of daily living.

(b) Activities of daily living include the following covered services:

- (1) dressing, including assistance with choosing, application, and changing of clothing and

application of special appliances, wraps, or clothing;

(2) grooming, including assistance with basic hair care, oral care, shaving, applying cosmetics and deodorant, and care of eyeglasses and hearing aids. Nail care is included, except for recipients who are diabetic or have poor circulation;

(3) bathing, including assistance with basic personal hygiene and skin care;

(4) eating, including assistance with hand washing and application of orthotics required for eating, transfers, and feeding;

(5) transfers, including assistance with transferring the recipient from one seating or reclining area to another;

(6) mobility, including assistance with ambulation, including use of a wheelchair. Mobility does not include providing transportation for a recipient;

(7) positioning, including assistance with positioning or turning a recipient for necessary care and comfort; and

(8) toileting, including assistance with helping recipient with bowel or bladder elimination and care including transfers, mobility, positioning, feminine hygiene, use of toileting equipment or supplies, cleansing the perineal area, inspection of the skin, and adjusting clothing.

(c) Health-related procedures and tasks include the following covered services:

(1) range of motion and passive exercise to maintain a recipient's strength and muscle functioning;

(2) assistance with self-administered medication as defined by this section, including reminders to take medication, bringing medication to the recipient, and assistance with opening medication under the direction of the recipient or responsible party;

(3) interventions for seizure disorders, including monitoring and observation; and

(4) other activities considered within the scope of the personal care service and meeting the definition of health-related procedures and tasks under this section.

(d) A personal care assistant may provide health-related procedures and tasks associated with the complex health-related needs of a recipient if the procedures and tasks meet the definition of health-related procedures and tasks under this section and the personal care assistant is trained by a qualified professional and demonstrates competency to safely complete the procedures and tasks. Delegation of health-related procedures and tasks and all training must be documented in the personal care assistance care plan and the recipient's and personal care assistant's files.

(e) Effective January 1, 2010, for a personal care assistant to provide the health-related procedures and tasks of tracheostomy suctioning and services to recipients on ventilator support there must be:

(1) delegation and training by a registered nurse, certified or licensed respiratory therapist, or a physician;

(2) utilization of clean rather than sterile procedure;

(3) specialized training about the health-related procedures and tasks and equipment, including ventilator operation and maintenance;

(4) individualized training regarding the needs of the recipient; and

(5) supervision by a qualified professional who is a registered nurse.

(f) Effective January 1, 2010, a personal care assistant may observe and redirect the recipient for episodes where there is a need for redirection due to behaviors. Training of the personal care assistant must occur based on the needs of the recipient, the personal care assistance care plan, and any other support services provided.

(g) Instrumental activities of daily living under subdivision 1, paragraph (h).

Subd. 3. **Noncovered personal care assistance services.** (a) Personal care assistance services are not eligible for medical assistance payment under this section when provided:

(1) by the recipient's spouse, parent of a recipient under the age of 18, paid legal guardian, licensed foster provider, except as allowed under section 256B.0651, subdivision 9a, or responsible party;

(2) in lieu of other staffing options in a residential or child care setting;

(3) solely as a child care or babysitting service; or

(4) without authorization by the commissioner or the commissioner's designee.

(b) The following personal care services are not eligible for medical assistance payment under this section when provided in residential settings:

(1) effective January 1, 2010, when the provider of home care services who is not related by blood, marriage, or adoption owns or otherwise controls the living arrangement, including licensed or unlicensed services; or

(2) when personal care assistance services are the responsibility of a residential or program license holder under the terms of a service agreement and administrative rules.

(c) Other specific tasks not covered under paragraph (a) or (b) that are not eligible for medical assistance reimbursement for personal care assistance services under this section include:

(1) sterile procedures;

(2) injections of fluids and medications into veins, muscles, or skin;

(3) home maintenance or chore services;

(4) homemaker services not an integral part of assessed personal care assistance services needed by a recipient;

(5) application of restraints or implementation of procedures under section 245.825;

(6) instrumental activities of daily living for children under the age of 18; and

(7) assessments for personal care assistance services by personal care assistance provider

agencies or by independently enrolled registered nurses.

Subd. 4. **Assessment for personal care assistance services.** (a) An assessment as defined in section 256B.0655, subdivision 1b, must be completed for personal care assistance services.

(b) The following limitations apply to the assessment:

(1) a person must be assessed as dependent in an activity of daily living based on the person's need, on a daily basis, for:

(i) cueing and constant supervision to complete the task; or

(ii) hands-on assistance to complete the task; and

(2) a child may not be found to be dependent in an activity of daily living if because of the child's age an adult would either perform the activity for the child or assist the child with the activity. Assistance needed is the assistance appropriate for a typical child of the same age.

(c) Assessment for complex health-related needs must meet the criteria in this paragraph. During the assessment process, a recipient qualifies as having complex health-related needs if the recipient has one or more of the interventions that are ordered by a physician, specified in a personal care assistance care plan, and found in the following:

(1) tube feedings requiring:

(i) a gastro/jejunostomy tube; or

(ii) continuous tube feeding lasting longer than 12 hours per day;

(2) wounds described as:

(i) stage III or stage IV;

(ii) multiple wounds;

(iii) requiring sterile or clean dressing changes or a wound vac; or

(iv) open lesions such as burns, fistulas, tube sites, or ostomy sites that require specialized care;

(3) parenteral therapy described as:

(i) IV therapy more than two times per week lasting longer than four hours for each treatment;

or

(ii) total parenteral nutrition (TPN) daily;

(4) respiratory interventions including:

(i) oxygen required more than eight hours per day;

(ii) respiratory vest more than one time per day;

(iii) bronchial drainage treatments more than two times per day;

(iv) sterile or clean suctioning more than six times per day;



(v) dependence on another to apply respiratory ventilation augmentation devices such as BiPAP and CPAP; and

(vi) ventilator dependence under section 256B.0652;

(5) insertion and maintenance of catheter including:

(i) sterile catheter changes more than one time per month;

(ii) clean self-catheterization more than six times per day; or

(iii) bladder irrigations;

(6) bowel program more than two times per week requiring more than 30 minutes to perform each time;

(7) neurological intervention including:

(i) seizures more than two times per week and requiring significant physical assistance to maintain safety; or

(ii) swallowing disorders diagnosed by a physician and requiring specialized assistance from another on a daily basis; and

(8) other congenital or acquired diseases creating a need for significantly increased direct hands-on assistance and interventions in six to eight activities of daily living.

(d) An assessment of behaviors must meet the criteria in this paragraph. A recipient qualifies as having a need for assistance due to behaviors if the recipient's behavior requires assistance at least four times per week and shows one or more of the following behaviors:

(1) physical aggression towards self or others, or destruction of property that requires the immediate response of another person;

(2) increased vulnerability due to cognitive deficits or socially inappropriate behavior; or

(3) verbally aggressive and resistive to care.

Subd. 5. **Service, support planning, and referral.** (a) The assessor, with the recipient or responsible party, shall review the assessment information and determine referrals for other payers, services, and community supports as appropriate.

(b) The recipient must be referred for evaluation, services, or supports that are appropriate to help meet the recipient's needs including, but not limited to, the following circumstances:

(1) when there is another payer who is responsible to provide the service to meet the recipient's needs;

(2) when the recipient qualifies for assistance due to mental illness or behaviors under this section, a referral for a mental health diagnostic and functional assessment must be completed, or referral must be made for other specific mental health services or other community services;

(3) when the recipient is eligible for medical assistance and meets medical assistance eligibility for a home health aide or skilled nurse visit;

(4) when the recipient would benefit from an evaluation for another service; and

(5) when there is a more appropriate service to meet the assessed needs.

(c) The reimbursement rates for public health nurse visits that relate to the provision of personal care assistance services under this section and section 256B.0625, subdivision 19a, are:

(1) \$210.50 for a face-to-face assessment visit;

(2) \$105.25 for each service update; and

(3) \$105.25 for each request for a temporary service increase.

(d) The rates specified in paragraph (c) must be adjusted to reflect provider rate increases for personal care assistance services that are approved by the legislature for the fiscal year ending June 30, 2000, and subsequent fiscal years. Any requirements applied by the legislature to provider rate increases for personal care assistance services also apply to adjustments under this paragraph.

(e) Effective July 1, 2008, the payment rate for an assessment under this section and section 256B.0651 shall be reduced by 25 percent when the assessment is not completed on time and the service agreement documentation is not submitted in time to continue services. The commissioner shall reduce the amount of the claim for those assessments that are not submitted on time.

Subd. 6. **Service plan.** The service plan must be completed by the assessor with the recipient and responsible party on a form determined by the commissioner and include a summary of the assessment with a description of the need, authorized amount, and expected outcomes and goals of personal care assistance services. The recipient and the provider chosen by the recipient or responsible party must be given a copy of the completed service plan within ten working days of the assessment. The recipient or responsible party must be given information by the assessor about the options in the personal care assistance program to allow for review and decision making.

Subd. 7. **Personal care assistance care plan.** (a) Each recipient must have a current personal care assistance care plan based on the service plan in subdivision 6 that is developed by the qualified professional with the recipient and responsible party. A copy of the most current personal care assistance care plan is required to be in the recipient's home and in the recipient's file at the provider agency.

(b) The personal care assistance care plan must have the following components:

(1) start and end date of the care plan;

(2) recipient demographic information, including name and telephone number;

(3) emergency numbers, procedures, and a description of measures to address identified safety and vulnerability issues, including a backup staffing plan;

(4) name of responsible party and instructions for contact;

(5) description of the recipient's individualized needs for assistance with activities of daily living, instrumental activities of daily living, health-related tasks, and behaviors; and

(6) dated signatures of recipient or responsible party and qualified professional.

(c) The personal care assistance care plan must have instructions and comments about the recipient's needs for assistance and any special instructions or procedures required. The month-to-month plan for the use of personal care assistance services is part of the personal care assistance care plan. The personal care assistance care plan must be completed within the first week after start of services with a personal care provider agency and must be updated as needed when there is a change in need for personal care assistance services. A new personal care assistance care plan is required annually at the time of the reassessment.

Subd. 8. **Communication with recipient's physician.** The personal care assistance program requires communication with the recipient's physician about a recipient's assessed needs for personal care assistance services. The commissioner shall work with the state medical director to develop options for communication with the recipient's physician.

Subd. 9. **Responsible party; generally.** (a) "Responsible party," effective January 1, 2010, means an individual who is capable of providing the support necessary to assist the recipient to live in the community.

(b) A responsible party must be 18 years of age, actively participate in planning and directing of personal care assistance services, and attend all assessments for the recipient.

(c) A responsible party must not be the:

(1) personal care assistant;

(2) home care provider agency owner or staff; or

(3) county staff acting as part of employment.

(d) A licensed family foster parent who lives with the recipient may be the responsible party as long as the family foster parent meets the other responsible party requirements.

(e) A responsible party is required when:

(1) the person is a minor according to section 524.5-102, subdivision 10;

(2) the person is an incapacitated adult according to section 524.5-102, subdivision 6, resulting in a court-appointed guardian; or

(3) the assessment according to section 256B.0655, subdivision 1b, determines that the recipient is in need of a responsible party to direct the recipient's care.

(f) There may be two persons designated as the responsible party for reasons such as divided households and court-ordered custodies. Each person named as responsible party must meet the program criteria and responsibilities.

(g) The recipient or the recipient's legal representative shall appoint a responsible party if necessary to direct and supervise the care provided to the recipient. The responsible party must be identified at the time of assessment and listed on the recipient's service agreement and personal care assistance care plan.

Subd. 10. **Responsible party; duties; delegation.** (a) A responsible party shall enter into a written agreement with a personal care assistance provider agency, on a form determined by the

commissioner, to perform the following duties:

(1) be available while care is provided in a method agreed upon by the individual or the individual's legal representative and documented in the recipient's personal care assistance care plan;

(2) monitor personal care assistance services to ensure the recipient's personal care assistance care plan is being followed; and

(3) review and sign personal care assistance time sheets after services are provided to provide verification of the personal care assistance services.

Failure to provide the support required by the recipient must result in a referral to the county common entry point.

(b) Responsible parties who are parents of minors or guardians of minors or incapacitated persons may delegate the responsibility to another adult who is not the personal care assistant during a temporary absence of at least 24 hours but not more than six months. The person delegated as a responsible party must be able to meet the definition of the responsible party, except that the delegated responsible party is required to reside with the recipient only while serving as the responsible party. The responsible party must ensure that the delegate performs the functions of the responsible party, is identified at the time of the assessment, and is listed on the personal care assistance care plan. The responsible party must communicate to the personal care assistance provider agency about the need for a delegate responsible party, including the name of the delegated responsible party, dates the delegated responsible party will be living with the recipient, and contact numbers.

Subd. 11. **Personal care assistant; requirements.** (a) A personal care assistant must meet the following requirements:

(1) be at least 18 years of age with the exception of persons who are 16 or 17 years of age with these additional requirements:

(i) supervision by a qualified professional every 60 days; and

(ii) employment by only one personal care assistance provider agency responsible for compliance with current labor laws;

(2) be employed by a personal care assistance provider agency;

(3) enroll with the department as a personal care assistant after clearing a background study. Before a personal care assistant provides services, the personal care assistance provider agency must initiate a background study on the personal care assistant under chapter 245C, and the personal care assistance provider agency must have received a notice from the commissioner that the personal care assistant is:

(i) not disqualified under section 245C.14; or

(ii) is disqualified, but the personal care assistant has received a set aside of the disqualification under section 245C.22;

(4) be able to effectively communicate with the recipient and personal care assistance provider

agency;

(5) be able to provide covered personal care assistance services according to the recipient's personal care assistance care plan, respond appropriately to recipient needs, and report changes in the recipient's condition to the supervising qualified professional or physician;

(6) not be a consumer of personal care assistance services;

(7) maintain daily written records including, but not limited to, time sheets under subdivision 12;

(8) effective January 1, 2010, complete standardized training as determined by the commissioner before completing enrollment. Personal care assistant training must include successful completion of the following training components: basic first aid, vulnerable adult, child maltreatment, OSHA universal precautions, basic roles and responsibilities of personal care assistants including information about assistance with lifting and transfers for recipients, emergency preparedness, orientation to positive behavioral practices, fraud issues, and completion of time sheets. Upon completion of the training components, the personal care assistant must demonstrate the competency to provide assistance to recipients;

(9) complete training and orientation on the needs of the recipient within the first seven days after the services begin; and

(10) be limited to providing and being paid for up to 310 hours per month of personal care assistance services regardless of the number of recipients being served or the number of personal care assistance provider agencies enrolled with.

(b) A legal guardian may be a personal care assistant if the guardian is not being paid for the guardian services and meets the criteria for personal care assistants in paragraph (a).

(c) Effective January 1, 2010, persons who do not qualify as a personal care assistant include parents and stepparents of minors, spouses, paid legal guardians, family foster care providers, except as otherwise allowed in section 256B.0625, subdivision 19a, or staff of a residential setting.

**Subd. 12. Documentation of personal care assistance services provided.** (a) Personal care assistance services for a recipient must be documented daily by each personal care assistant, on a time sheet form approved by the commissioner. All documentation may be Web-based, electronic, or paper documentation. The completed form must be submitted on a monthly basis to the provider and kept in the recipient's health record.

(b) The activity documentation must correspond to the personal care assistance care plan and be reviewed by the qualified professional.

(c) The personal care assistant time sheet must be on a form approved by the commissioner documenting time the personal care assistant provides services in the home. The following criteria must be included in the time sheet:

(1) full name of personal care assistant and individual provider number;

(2) provider name and telephone numbers;

(3) full name of recipient;

(4) consecutive dates, including month, day, and year, and arrival and departure time with a.m. or p.m. notations;

(5) signatures of recipient or the responsible party;

(6) personal signature of the personal care assistant;

(7) any shared care provided, if applicable;

(8) a statement that it is a federal crime to provide false information on personal care service billings for medical assistance payments; and

(9) dates and location of recipient stays in a hospital, care facility, or incarceration.

Subd. 13. **Qualified professional; qualifications.** (a) The qualified professional must be employed by a personal care assistance provider agency and meet the definition under section 256B.0625, subdivision 19c. Before a qualified professional provides services, the personal care assistance provider agency must initiate a background study on the qualified professional under chapter 245C, and the personal care assistance provider agency must have received a notice from the commissioner that the qualified professional:

(1) is not disqualified under section 245C.14; or

(2) is disqualified, but the qualified professional has received a set aside of the disqualification under section 245C.22.

(b) The qualified professional shall perform the duties of training, supervision, and evaluation of the personal care assistance staff and evaluation of the effectiveness of personal care assistance services. The qualified professional shall:

(1) develop and monitor with the recipient a personal care assistance care plan based on the service plan and individualized needs of the recipient;

(2) develop and monitor with the recipient a monthly plan for the use of personal care assistance services;

(3) review documentation of personal care assistance services provided;

(4) provide training and ensure competency for the personal care assistant in the individual needs of the recipient; and

(5) document all training, communication, evaluations, and needed actions to improve performance of the personal care assistants.

(c) The qualified professional shall complete the provider training with basic information about the personal care assistance program approved by the commissioner within six months of the date hired by a personal care assistance provider agency. Qualified professionals who have completed the required trainings as an employee with a personal care assistance provider agency do not need to repeat the required trainings if they are hired by another agency, if they have completed the training within the last three years.

Subd. 14. **Qualified professional; duties.** (a) Effective January 1, 2010, all personal care assistants must be supervised by a qualified professional.

(b) Through direct training, observation, return demonstrations, and consultation with the staff and the recipient, the qualified professional must ensure and document that the personal care assistant is:

- (1) capable of providing the required personal care assistance services;
- (2) knowledgeable about the plan of personal care assistance services before services are performed; and
- (3) able to identify conditions that should be immediately brought to the attention of the qualified professional.

(c) The qualified professional shall evaluate the personal care assistant within the first 14 days of starting to provide services for a recipient except for the personal care assistance choice option under subdivision 19, paragraph (a), clause (4). The qualified professional shall evaluate the personal care assistance services for a recipient through direct observation of a personal care assistant's work:

- (1) at least every 90 days thereafter for the first year of a recipient's services; and
- (2) every 120 days after the first year of a recipient's service or whenever needed for response to a recipient's request for increased supervision of the personal care assistance staff.

(d) Communication with the recipient is a part of the evaluation process of the personal care assistance staff.

(e) At each supervisory visit, the qualified professional shall evaluate personal care assistance services including the following information:

- (1) satisfaction level of the recipient with personal care assistance services;
- (2) review of the month-to-month plan for use of personal care assistance services;
- (3) review of documentation of personal care assistance services provided;
- (4) whether the personal care assistance services are meeting the goals of the service as stated in the personal care assistance care plan and service plan;
- (5) a written record of the results of the evaluation and actions taken to correct any deficiencies in the work of a personal care assistant; and
- (6) revision of the personal care assistance care plan as necessary in consultation with the recipient or responsible party, to meet the needs of the recipient.

(f) The qualified professional shall complete the required documentation in the agency recipient and employee files and the recipient's home, including the following documentation:

- (1) the personal care assistance care plan based on the service plan and individualized needs of the recipient;
- (2) a month-to-month plan for use of personal care assistance services;
- (3) changes in need of the recipient requiring a change to the level of service and the personal care assistance care plan;

(4) evaluation results of supervision visits and identified issues with personal care assistance staff with actions taken;

(5) all communication with the recipient and personal care assistance staff; and

(6) hands-on training or individualized training for the care of the recipient.

(g) The documentation in paragraph (f) must be done on agency forms.

(h) The services that are not eligible for payment as qualified professional services include:

(1) direct professional nursing tasks that could be assessed and authorized as skilled nursing tasks;

(2) supervision of personal care assistance completed by telephone;

(3) agency administrative activities;

(4) training other than the individualized training required to provide care for a recipient; and

(5) any other activity that is not described in this section.

Subd. 15. **Flexible use.** (a) "Flexible use" means the scheduled use of authorized hours of personal care assistance services, which vary within a service authorization period covering no more than six months, in order to more effectively meet the needs and schedule of the recipient. Each 12-month service agreement is divided into two six-month authorization date spans. No more than 75 percent of the total authorized units for a 12-month service agreement may be used in a six-month date span.

(b) Authorization of flexible use occurs during the authorization process under section 256B.0652. The flexible use of authorized hours does not increase the total amount of authorized hours available to a recipient. The commissioner shall not authorize additional personal care assistance services to supplement a service authorization that is exhausted before the end date under a flexible service use plan, unless the assessor determines a change in condition and a need for increased services is established. Authorized hours not used within the six-month period must not be carried over to another time period.

(c) A recipient who has terminated personal care assistance services before the end of the 12-month authorization period must not receive additional hours upon reapplying during the same 12-month authorization period, except if a change in condition is documented. Services must be prorated for the remainder of the 12-month authorization period based on the first six-month assessment.

(d) The recipient, responsible party, and qualified professional must develop a written month-to-month plan of the projected use of personal care assistance services that is part of the personal care assistance care plan and ensures:

(1) that the health and safety needs of the recipient are met throughout both date spans of the authorization period; and

(2) that the total authorized amount of personal care assistance services for each date span must not be used before the end of each date span in the authorization period.



(e) The personal care assistance provider agency shall monitor the use of personal care assistance services to ensure health and safety needs of the recipient are met throughout both date spans of the authorization period. The commissioner or the commissioner's designee shall provide written notice to the provider and the recipient or responsible party when a recipient is at risk of exceeding the personal care assistance services prior to the end of the six-month period.

(f) Misuse and abuse of the flexible use of personal care assistance services resulting in the overuse of units in a manner where the recipient will not have enough units to meet their needs for assistance and ensure health and safety for the entire six-month date span may lead to an action by the commissioner. The commissioner may take action including, but not limited to: (1) restricting recipients to service authorizations of no more than one month in duration; (2) requiring the recipient to have a responsible party; and (3) requiring a qualified professional to monitor and report services on a monthly basis.

Subd. 16. **Shared services.** (a) Medical assistance payments for shared personal care assistance services are limited according to this subdivision.

(b) Shared service is the provision of personal care assistance services by a personal care assistant to two or three recipients, eligible for medical assistance, who voluntarily enter into an agreement to receive services at the same time and in the same setting.

(c) For the purposes of this subdivision, "setting" means:

- (1) the home residence or family foster care home of one or more of the individual recipients; or
- (2) a child care program licensed under chapter 245A or operated by a local school district or private school.

(d) Shared personal care assistance services follow the same criteria for covered services as subdivision 2.

(e) Noncovered shared personal care assistance services include the following:

- (1) services for more than three recipients by one personal care assistant at one time;
- (2) staff requirements for child care programs under chapter 245C;
- (3) caring for multiple recipients in more than one setting;
- (4) additional units of personal care assistance based on the selection of the option; and
- (5) use of more than one personal care assistance provider agency for the shared care services.

(f) The option of shared personal care assistance is elected by the recipient or the responsible party with the assistance of the assessor. The option must be determined appropriate based on the ages of the recipients, compatibility, and coordination of their assessed care needs. The recipient or the responsible party, in conjunction with the qualified professional, shall arrange the setting and grouping of shared services based on the individual needs and preferences of the recipients. The personal care assistance provider agency shall offer the recipient or the responsible party the option of shared or one-on-one personal care assistance services or a combination of both. The recipient or the responsible party may withdraw from participating in a shared services arrangement at any time.

(g) Authorization for the shared service option must be determined by the commissioner based on the criteria that the shared service is appropriate to meet all of the recipients' needs and their health and safety is maintained. The authorization of shared services is part of the overall authorization of personal care assistance services. Nothing in this subdivision must be construed to reduce the total number of hours authorized for an individual recipient.

(h) A personal care assistant providing shared personal care assistance services must:

(1) receive training specific for each recipient served; and

(2) follow all required documentation requirements for time and services provided.

(i) A qualified professional shall:

(1) evaluate the ability of the personal care assistant to provide services for all of the recipients in a shared setting;

(2) visit the shared setting as services are being provided at least once every six months or whenever needed for response to a recipient's request for increased supervision of the personal care assistance staff;

(3) provide ongoing monitoring and evaluation of the effectiveness and appropriateness of the shared services;

(4) develop a contingency plan with each of the recipients which accounts for absence of the recipient in a share services setting due to illness or other circumstances;

(5) obtain permission from each of the recipients who are sharing a personal care assistant for number of shared hours for services provided inside and outside the home residence; and

(6) document the training completed by the personal care assistants specific to the shared setting and recipients sharing services.

Subd. 17. **Shared services; rates.** The commissioner shall provide a rate system for shared personal care assistance services. For two persons sharing services, the rate paid to a provider must not exceed one and one-half times the rate paid for serving a single individual, and for three persons sharing services, the rate paid to a provider must not exceed twice the rate paid for serving a single individual. These rates apply only when all of the criteria for the shared care personal care assistance service have been met.

Subd. 18. **Personal care assistance choice option; generally.** (a) The commissioner may allow a recipient of personal care assistance services to use a fiscal intermediary to assist the recipient in paying and accounting for medically necessary covered personal care assistance services. Unless otherwise provided in this section, all other statutory and regulatory provisions relating to personal care assistance services apply to a recipient using the personal care assistance choice option.

(b) Personal care assistance choice is an option of the personal care assistance program that allows the recipient who receives personal care assistance services to be responsible for the hiring, training, scheduling, and firing of personal care assistants. This program offers greater control and choice for the recipient in who provides the personal care assistance service and when the service is scheduled. The recipient or the recipient's responsible party must choose a personal care assistance choice provider agency as a fiscal intermediary. This personal care assistance choice provider agency

manages payroll, invoices the state, is responsible for all payroll related taxes and insurance, and is responsible for providing the consumer training and support in managing the recipient's personal care assistance services.

Subd. 19. **Personal care assistance choice option; qualifications; duties.** (a) Under personal care assistance choice, the recipient or responsible party shall:

- (1) recruit, hire, schedule, and terminate personal care assistants and a qualified professional;
- (2) develop a personal care assistance care plan based on the assessed needs and addressing the health and safety of the recipient with the assistance of a qualified professional as needed;
- (3) orient and train the personal care assistant with assistance as needed from the qualified professional;
- (4) effective January 1, 2010, supervise and evaluate the personal care assistant with the qualified professional, who is required to visit the recipient at least every 180 days;
- (5) monitor and verify in writing and report to the personal care assistance choice agency the number of hours worked by the personal care assistant and the qualified professional;
- (6) engage in an annual face-to-face reassessment to determine continuing eligibility and service authorization; and
- (7) use the same personal care assistance choice provider agency if shared personal assistance care is being used.

(b) The personal care assistance choice provider agency shall:

- (1) meet all personal care assistance provider agency standards;
- (2) enter into a written agreement with the recipient, responsible party, and personal care assistants;
- (3) not be related as a parent, child, sibling, or spouse to the recipient, qualified professional, or the personal care assistant; and
- (4) ensure arm's-length transactions without undue influence or coercion with the recipient and personal care assistant.

(c) The duties of the personal care assistance choice provider agency are to:

- (1) be the employer of the personal care assistant and the qualified professional for employment law and related regulations including, but not limited to, purchasing and maintaining workers' compensation, unemployment insurance, surety and fidelity bonds, and liability insurance, and submit any or all necessary documentation including, but not limited to, workers' compensation and unemployment insurance;
- (2) bill the medical assistance program for personal care assistance services and qualified professional services;
- (3) request and complete background studies that comply with the requirements for personal care assistants and qualified professionals;

(4) pay the personal care assistant and qualified professional based on actual hours of services provided;

(5) withhold and pay all applicable federal and state taxes;

(6) verify and keep records of hours worked by the personal care assistant and qualified professional;

(7) make the arrangements and pay taxes and other benefits, if any; and comply with any legal requirements for a Minnesota employer;

(8) enroll in the medical assistance program as a personal care assistance choice agency; and

(9) enter into a written agreement as specified in subdivision 20 before services are provided.

Subd. 20. **Personal care assistance choice option; administration.** (a) Before services commence under the personal care assistance choice option, and annually thereafter, the personal care assistance choice provider agency, recipient, or responsible party, each personal care assistant, and the qualified professional shall enter into a written agreement. The agreement must include at a minimum:

(1) duties of the recipient, qualified professional, personal care assistant, and personal care assistance choice provider agency;

(2) salary and benefits for the personal care assistant and the qualified professional;

(3) administrative fee of the personal care assistance choice provider agency and services paid for with that fee, including background study fees;

(4) grievance procedures to respond to complaints;

(5) procedures for hiring and terminating the personal care assistant; and

(6) documentation requirements including, but not limited to, time sheets, activity records, and the personal care assistance care plan.

(b) Effective January 1, 2010, except for the administrative fee of the personal care assistance choice provider agency as reported on the written agreement, the remainder of the rates paid to the personal care assistance choice provider agency must be used to pay for the salary and benefits for the personal care assistant or the qualified professional. The provider agency must use a minimum of 72.5 percent of the revenue generated by the medical assistance rate for personal care assistance services for employee personal care assistant wages and benefits.

(c) The commissioner shall deny, revoke, or suspend the authorization to use the personal care assistance choice option if:

(1) it has been determined by the qualified professional or public health nurse that the use of this option jeopardizes the recipient's health and safety;

(2) the parties have failed to comply with the written agreement specified in this subdivision;

(3) the use of the option has led to abusive or fraudulent billing for personal care assistance services; or

(4) the department terminates the personal care assistance choice option.

(d) The recipient or responsible party may appeal the commissioner's decision in paragraph (c) according to section 256.045. The denial, revocation, or suspension to use the personal care assistance choice option must not affect the recipient's authorized level of personal care assistance services.

**Subd. 21. Requirements for initial enrollment of personal care assistance provider agencies.**

(a) All personal care assistance provider agencies must provide, at the time of enrollment as a personal care assistance provider agency in a format determined by the commissioner, information and documentation that includes, but is not limited to, the following:

(1) the personal care assistance provider agency's current contact information including address, telephone number, and e-mail address;

(2) proof of surety bond coverage in the amount of \$50,000 or ten percent of the provider's payments from Medicaid in the previous year, whichever is less;

(3) proof of fidelity bond coverage in the amount of \$20,000;

(4) proof of workers' compensation insurance coverage;

(5) a description of the personal care assistance provider agency's organization identifying the names of all owners, managing employees, staff, board of directors, and the affiliations of the directors, owners, or staff to other service providers;

(6) a copy of the personal care assistance provider agency's written policies and procedures including: hiring of employees; training requirements; service delivery; and employee and consumer safety including process for notification and resolution of consumer grievances, identification and prevention of communicable diseases, and employee misconduct;

(7) copies of all other forms the personal care assistance provider agency uses in the course of daily business including, but not limited to:

(i) a copy of the personal care assistance provider agency's time sheet if the time sheet varies from the standard time sheet for personal care assistance services approved by the commissioner, and a letter requesting approval of the personal care assistance provider agency's nonstandard time sheet;

(ii) the personal care assistance provider agency's template for the personal care assistance care plan; and

(iii) the personal care assistance provider agency's template and the written agreement in subdivision 20 for recipients using the personal care assistance choice option, if applicable;

(8) a list of all trainings and classes that the personal care assistance provider agency requires of its staff providing personal care assistance services;

(9) documentation that the personal care assistance provider agency and staff have successfully completed all the training required by this section;

(10) documentation of the agency's marketing practices;

(11) disclosure of ownership, leasing, or management of all residential properties that is used or could be used for providing home care services; and

(12) documentation that the agency will use the following percentages of revenue generated from the medical assistance rate paid for personal care assistance services for employee personal care assistant wages and benefits: 72.5 percent of revenue in the personal care assistance choice option and 72.5 percent of revenue from other personal care assistance providers.

(b) Personal care assistance provider agencies shall provide the information specified in paragraph (a) to the commissioner at the time the personal care assistance provider agency enrolls as a vendor or upon request from the commissioner. The commissioner shall collect the information specified in paragraph (a) from all personal care assistance providers beginning upon enactment of this section.

(c) All personal care assistance provider agencies shall complete mandatory training as determined by the commissioner before enrollment as a provider. Personal care assistance provider agencies are required to send all owners, qualified professionals employed by the agency, and all other managing employees to the initial and subsequent trainings. Personal care assistance provider agency billing staff shall complete training about personal care assistance program financial management. This training is effective upon enactment of this section. Any personal care assistance provider agency enrolled before that date shall, if it has not already, complete the provider training within 18 months of the effective date of this section. Any new owners, new qualified professionals, and new managing employees are required to complete mandatory training as a requisite of hiring.

Subd. 22. **Annual review for personal care providers.** (a) All personal care assistance provider agencies shall resubmit, on an annual basis, the information specified in subdivision 21, in a format determined by the commissioner, and provide a copy of the personal care assistance provider agency's most current version of its grievance policies and procedures along with a written record of grievances and resolutions of the grievances that the personal care assistance provider agency has received in the previous year and any other information requested by the commissioner.

(b) The commissioner shall send annual review notification to personal care assistance provider agencies 30 days prior to renewal. The notification must:

(1) list the materials and information the personal care assistance provider agency is required to submit;

(2) provide instructions on submitting information to the commissioner; and

(3) provide a due date by which the commissioner must receive the requested information.

Personal care assistance provider agencies shall submit required documentation for annual review within 30 days of notification from the commissioner. If no documentation is submitted, the personal care assistance provider agency enrollment number must be terminated or suspended.

(c) Personal care assistance provider agencies also currently licensed under Minnesota Rules, part 4668.0012, as a class A provider or currently certified for participation in Medicare as a home health agency are deemed in compliance with the personal care assistance requirements for enrollment, annual review process, and documentation.

Subd. 23. **Enrollment requirements following termination.** (a) A terminated personal care

assistance provider agency, including all named individuals on the current enrollment disclosure form and known or discovered affiliates of the personal care assistance provider agency, is not eligible to enroll as a personal care assistance provider agency for two years following the termination.

(b) After the two-year period in paragraph (a), if the provider seeks to reenroll as a personal care assistance provider agency, the personal care assistance provider agency must be placed on a one-year probation period, beginning after completion of the following:

(1) the department's provider trainings under this section; and

(2) initial enrollment requirements under subdivision 21.

(c) During the probationary period the commissioner shall complete site visits and request submission of documentation to review compliance with program policy.

Subd. 24. **Personal care assistance provider agency; general duties.** A personal care assistance provider agency shall:

(1) enroll as a Medicaid provider meeting all provider standards, including completion of the required provider training;

(2) comply with general medical assistance coverage requirements;

(3) demonstrate compliance with law and policies of the personal care assistance program to be determined by the commissioner;

(4) comply with background study requirements;

(5) verify and keep records of hours worked by the personal care assistant and qualified professional;

(6) market agency services only through printed information in brochures and on Web sites and not engage in any agency-initiated direct contact or marketing in person, by phone, or other electronic means to potential recipients, guardians, or family members;

(7) pay the personal care assistant and qualified professional based on actual hours of services provided;

(8) withhold and pay all applicable federal and state taxes;

(9) effective January 1, 2010, document that the agency uses a minimum of 72.5 percent of the revenue generated by the medical assistance rate for personal care assistance services for employee personal care assistant wages and benefits;

(10) make the arrangements and pay unemployment insurance, taxes, workers' compensation, liability insurance, and other benefits, if any;

(11) enter into a written agreement under subdivision 20 before services are provided;

(12) report suspected neglect and abuse to the common entry point according to section 256B.0651;

(13) provide the recipient with a copy of the home care bill of rights at start of service; and

(14) request reassessments at least 60 days prior to the end of the current authorization for personal care assistance services, on forms provided by the commissioner.

Subd. 25. **Personal care assistance provider agency; background studies.** Personal care assistance provider agencies enrolled to provide personal care assistance services under the medical assistance program shall comply with the following:

(1) owners who have a five percent interest or more and all managing employees are subject to a background study as provided in chapter 245C. This applies to currently enrolled personal care assistance provider agencies and those agencies seeking enrollment as a personal care assistance provider agency. Managing employee has the same meaning as Code of Federal Regulations, title 42, section 455. An organization is barred from enrollment if:

(i) the organization has not initiated background studies on owners and managing employees; or

(ii) the organization has initiated background studies on owners and managing employees, but the commissioner has sent the organization a notice that an owner or managing employee of the organization has been disqualified under section 245C.14, and the owner or managing employee has not received a set aside of the disqualification under section 245C.22;

(2) a background study must be initiated and completed for all qualified professionals; and

(3) a background study must be initiated and completed for all personal care assistants.

Subd. 26. **Personal care assistance provider agency; communicable disease prevention.** A personal care assistance provider agency shall establish and implement policies and procedures for prevention, control, and investigation of infections and communicable diseases according to current nationally recognized infection control practices or guidelines established by the United States Centers for Disease Control and Prevention, as well as applicable regulations of other federal or state agencies.

Subd. 27. **Personal care assistance provider agency; ventilator training.** The personal care assistance provider agency is required to provide training for the personal care assistant responsible for working with a recipient who is ventilator dependent. All training must be administered by a respiratory therapist, nurse, or physician. Qualified professional supervision by a nurse must be completed and documented on file in the personal care assistant's employment record and the recipient's health record. If offering personal care services to a ventilator-dependent recipient, the personal care assistance provider agency shall demonstrate the ability to:

(1) train the personal care assistant;

(2) supervise the personal care assistant in ventilator operation and maintenance; and

(3) supervise the recipient and responsible party in ventilator operation and maintenance.

Subd. 28. **Personal care assistance provider agency; required documentation.** Required documentation must be completed and kept in the personal care assistance provider agency file or the recipient's home residence. The required documentation consists of:

(1) employee files, including:

(i) applications for employment;



- (ii) background study requests and results;
- (iii) orientation records about the agency policies;
- (iv) trainings completed with demonstration of competence;
- (v) supervisory visits;
- (vi) evaluations of employment; and
- (vii) signature on fraud statement;
- (2) recipient files, including:
  - (i) demographics;
  - (ii) emergency contact information and emergency backup plan;
  - (iii) personal care assistance service plan;
  - (iv) personal care assistance care plan;
  - (v) month-to-month service use plan;
  - (vi) all communication records;
  - (vii) start of service information, including the written agreement with recipient; and
  - (viii) date the home care bill of rights was given to the recipient;
- (3) agency policy manual, including:
  - (i) policies for employment and termination;
  - (ii) grievance policies with resolution of consumer grievances;
  - (iii) staff and consumer safety;
  - (iv) staff misconduct; and
  - (v) staff hiring, service delivery, staff and consumer safety, staff misconduct, and resolution of consumer grievances;
- (4) time sheets for each personal care assistant along with completed activity sheets for each recipient served; and
- (5) agency marketing and advertising materials and documentation of marketing activities and costs.

Subd. 29. **Transitional assistance.** The commissioner, counties, health plans, tribes, and personal care assistance providers shall work together to provide transitional assistance for recipients and families to come into compliance with the new requirements of this section and ensure the personal care assistance services are not provided by the housing provider.

Subd. 30. **Notice of service changes to recipients.** The commissioner must provide:

(1) by October 31, 2009, information to recipients likely to be affected that (i) describes the changes to the personal care assistance program that may result in the loss of access to personal care assistance services, and (ii) includes resources to obtain further information; and

(2) notice of changes in medical assistance home care services to each affected recipient at least 30 days before the effective date of the change.

The notice shall include how to get further information on the changes, how to get help to obtain other services, a list of community resources, and appeal rights. Notwithstanding section 256.045, a recipient may request continued services pending appeal within the time period allowed to request an appeal.

**EFFECTIVE DATE.** Subdivisions 4, 22, and 27 are effective January 1, 2010.

Sec. 32. Minnesota Statutes 2008, section 256B.0911, subdivision 1, is amended to read:

Subdivision 1. **Purpose and goal.** (a) The purpose of long-term care consultation services is to assist persons with long-term or chronic care needs in making long-term care decisions and selecting options that meet their needs and reflect their preferences. The availability of, and access to, information and other types of assistance, including assessment and support planning, is also intended to prevent or delay certified nursing facility placements and to provide transition assistance after admission. Further, the goal of these services is to contain costs associated with unnecessary certified nursing facility admissions. Long-term consultation services must be available to any person regardless of public program eligibility. The commissioner of human services and health shall seek to maximize use of available federal and state funds and establish the broadest program possible within the funding available.

(b) These services must be coordinated with services long-term care options counseling provided under section 256.975, subdivision 7, and with services provided by other public and private agencies in the community section 256.01, subdivision 24, for telephone assistance and follow up and to offer a variety of cost-effective alternatives to persons with disabilities and elderly persons. The county or tribal agency or managed care plan providing long-term care consultation services shall encourage the use of volunteers from families, religious organizations, social clubs, and similar civic and service organizations to provide community-based services.

Sec. 33. Minnesota Statutes 2008, section 256B.0911, subdivision 1a, is amended to read:

Subd. 1a. **Definitions.** For purposes of this section, the following definitions apply:

(a) "Long-term care consultation services" means:

~~(1) providing information and education to the general public regarding availability of the services authorized under this section;~~

~~(2) an intake process that provides access to the services described in this section;~~

~~(3) assessment of the health, psychological, and social needs of referred individuals;~~

~~(4) assistance in identifying services needed to maintain an individual in the least restrictive most inclusive environment;~~

~~(5) (2) providing recommendations on cost-effective community services that are available to~~

the individual;

~~(6)~~ (3) development of an individual's person-centered community support plan;

~~(7)~~ (4) providing information regarding eligibility for Minnesota health care programs;

(5) face-to-face long-term care consultation assessments, which may be completed in a hospital, nursing facility, intermediate care facility for persons with developmental disabilities (ICF/DDs), regional treatment centers, or the person's current or planned residence;

~~(8) preadmission~~ (6) federally mandated screening to determine the need for a nursing facility institutional level of care under section 256B.0911, subdivision 4, paragraph (a);

~~(9) preliminary~~ (7) determination of Minnesota health care programs home and community-based waiver service eligibility including level of care determination for individuals who need a nursing facility an institutional level of care as defined under section 144.0724, subdivision 11, or 256B.092, service eligibility including state plan home care services identified in section 256B.0625, subdivisions 6, 7, and 19, paragraphs (a) and (c), based on assessment and support plan development with appropriate referrals for final determination;

~~(10)~~ (8) providing recommendations for nursing facility placement when there are no cost-effective community services available; and

~~(11)~~ (9) assistance to transition people back to community settings after facility admission.

(b) "Long-term options counseling" means the services provided by the linkage lines as mandated by sections 256.01 and 256.975, subdivision 7, and also includes telephone assistance and follow up once a long-term care consultation assessment has been completed.

~~(b)~~ (c) "Minnesota health care programs" means the medical assistance program under chapter 256B and the alternative care program under section 256B.0913.

(d) "Lead agencies" means counties or a collaboration of counties, tribes, and health plans administering long-term care consultation assessment and support planning services.

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

Sec. 34. Minnesota Statutes 2008, section 256B.0911, is amended by adding a subdivision to read:

Subd. 2b. **Certified assessors.** (a) Beginning January 1, 2011, each lead agency shall use certified assessors who have completed training and certification process determined by the commissioner in subdivision 2c. Certified assessors shall demonstrate best practices in assessment and support planning including person-centered planning principals and have a common set of skills that must ensure consistency and equitable access to services statewide. Assessors must be part of a multidisciplinary team of professionals that includes public health nurses, social workers, and other professionals as defined in paragraph (b). For persons with complex health care needs, a public health nurse or registered nurse from a multidisciplinary team must be consulted.

(b) Certified assessors are persons with a minimum of a bachelor's degree in social work, nursing with a public health nursing certificate, or other closely related field with at least one year of home and community-based experience or a two-year registered nursing degree with at least three years

of home and community-based experience that have received training and certification specific to assessment and consultation for long-term care services in the state.

Sec. 35. Minnesota Statutes 2008, section 256B.0911, is amended by adding a subdivision to read:

Subd. 2c. **Assessor training and certification.** The commissioner shall develop a curriculum and an assessor certification process to begin no later than January 1, 2010. All existing lead agency staff designated to provide the services defined in subdivision 1a must be certified by December 30, 2010. Each lead agency is required to ensure that they have sufficient numbers of certified assessors to provide long-term consultation assessment and support planning within the timelines and parameters of the service by January 1, 2011. Certified assessors are required to be recertified every three years.

Sec. 36. Minnesota Statutes 2008, section 256B.0911, subdivision 3, is amended to read:

Subd. 3. **Long-term care consultation team.** (a) Until January 1, 2011, a long-term care consultation team shall be established by the county board of commissioners. Each local consultation team shall consist of at least one social worker and at least one public health nurse from their respective county agencies. The board may designate public health or social services as the lead agency for long-term care consultation services. If a county does not have a public health nurse available, it may request approval from the commissioner to assign a county registered nurse with at least one year experience in home care to participate on the team. Two or more counties may collaborate to establish a joint local consultation team or teams.

(b) The team is responsible for providing long-term care consultation services to all persons located in the county who request the services, regardless of eligibility for Minnesota health care programs.

(c) The commissioner shall allow arrangements and make recommendations that encourage counties to collaborate to establish joint local long-term care consultation teams to ensure that long-term care consultations are done within the timelines and parameters of the service. This includes integrated service models as required in subdivision 1, paragraph (b).

Sec. 37. Minnesota Statutes 2008, section 256B.0911, subdivision 3a, is amended to read:

Subd. 3a. **Assessment and support planning.** (a) Persons requesting assessment, services planning, or other assistance intended to support community-based living, including persons who need assessment in order to determine waiver or alternative care program eligibility, must be visited by a long-term care consultation team ~~within ten working~~ within 15 calendar days after the date on which an assessment was requested or recommended. After January 1, 2011, these requirements also apply to personal care assistance services, private duty nursing, and home health agency services, on timelines established in subdivision 5. Face-to-face assessments must be conducted according to paragraphs (b) to (i).

(b) ~~The county may utilize a team of either the social worker or public health nurse, or both.~~ After January 1, 2011, lead agencies shall use certified assessors to conduct the assessment in a face-to-face interview. The consultation team members must confer regarding the most appropriate care for each individual screened or assessed.

~~(c) The long-term care consultation team must assess the health and social needs of the~~

person assessment must be comprehensive and include a person-centered assessment of the health, psychological, functional, environmental, and social needs of referred individuals and provide information necessary to develop a support plan that meets the consumers needs, using an assessment form provided by the commissioner.

(d) ~~The team must conduct the~~ assessment must be conducted in a face-to-face interview with the person being assessed and the person's legal representative, ~~if applicable~~ as required by legally executed documents, and other individuals as requested by the person, who can provide information on the needs, strengths, and preferences of the person necessary to develop a support plan that ensures the person's health and safety, but who is not a provider of service or has any financial interest in the provision of services.

(e) ~~The team must provide the~~ person, or the person's legal representative, must be provided with written recommendations for ~~facility or~~ community-based services. ~~The team must document or institutional care that include documentation that the most cost-effective alternatives available were offered to the individual. For purposes of this requirement, "cost-effective alternatives" means community services and living arrangements that cost the same as or less than nursing facility institutional care.~~

(f) If the person chooses to use community-based services, ~~the team must provide the~~ person or the person's legal representative must be provided with a written community support plan, regardless of whether the individual is eligible for Minnesota health care programs. ~~The A~~ person may request assistance in ~~developing a community support plan~~ identifying community supports without participating in a complete assessment. Upon a request for assistance identifying community support, the person must be transferred or referred to the services available under sections 256.975, subdivision 7, and 256.01, subdivision 24, for telephone assistance and follow up.

(g) The person has the right to make the final decision between ~~nursing facility~~ institutional placement and community placement after the ~~screening team's recommendation~~ recommendations have been provided, except as provided in subdivision 4a, paragraph (c).

(h) The team must give the person receiving assessment or support planning, or the person's legal representative, materials, and forms supplied by the commissioner containing the following information:

(1) the need for and purpose of preadmission screening if the person selects nursing facility placement;

(2) the role of the long-term care consultation assessment and support planning in waiver and alternative care program eligibility determination;

(3) information about Minnesota health care programs;

(4) the person's freedom to accept or reject the recommendations of the team;

(5) the person's right to confidentiality under the Minnesota Government Data Practices Act, chapter 13;

(6) the long-term care consultant's decision regarding the person's need for ~~nursing facility~~ institutional level of care as determined under criteria established in section 144.0724, subdivision 11, or 256B.092; and

(7) the person's right to appeal the decision regarding the need for nursing facility level of care or the county's final decisions regarding public programs eligibility according to section 256.045, subdivision 3.

(i) Face-to-face assessment completed as part of eligibility determination for the alternative care, elderly waiver, community alternatives for disabled individuals, community alternative care, and traumatic brain injury waiver programs under sections 256B.0915, 256B.0917, and 256B.49 is valid to establish service eligibility for no more than 60 calendar days after the date of assessment. The effective eligibility start date for these programs can never be prior to the date of assessment. If an assessment was completed more than 60 days before the effective waiver or alternative care program eligibility start date, assessment and support plan information must be updated in a face-to-face visit and documented in the department's Medicaid Management Information System (MMIS). The effective date of program eligibility in this case cannot be prior to the date the updated assessment is completed.

Sec. 38. Minnesota Statutes 2008, section 256B.0911, subdivision 3b, is amended to read:

Subd. 3b. **Transition assistance.** (a) A long-term care consultation team shall provide assistance to persons residing in a nursing facility, hospital, regional treatment center, or intermediate care facility for persons with developmental disabilities who request or are referred for assistance. Transition assistance must include assessment, community support plan development, referrals to long-term care options counseling under section 256B.975, subdivision 10, for community support plan implementation and to Minnesota health care programs, and referrals to programs that provide assistance with housing. Transition assistance must also include information about the Centers for Independent Living and the Senior LinkAge Line, and about other organizations that can provide assistance with relocation efforts, and information about contacting these organizations to obtain their assistance and support.

(b) The county shall develop transition processes with institutional social workers and discharge planners to ensure that:

- (1) persons admitted to facilities receive information about transition assistance that is available;
- (2) the assessment is completed for persons within ten working days of the date of request or recommendation for assessment; and
- (3) there is a plan for transition and follow-up for the individual's return to the community. The plan must require notification of other local agencies when a person who may require assistance is screened by one county for admission to a facility located in another county.

(c) If a person who is eligible for a Minnesota health care program is admitted to a nursing facility, the nursing facility must include a consultation team member or the case manager in the discharge planning process.

Sec. 39. Minnesota Statutes 2008, section 256B.0911, subdivision 3c, is amended to read:

Subd. 3c. **Transition to housing with services.** (a) Housing with services establishments offering or providing assisted living under chapter 144G shall inform all prospective residents of the availability of and contact information for transitional consultation services under this subdivision prior to executing a lease or contract with the prospective resident. The purpose of transitional long-term care consultation is to support persons with current or anticipated long-term

care needs in making informed choices among options that include the most cost-effective and least restrictive settings, and to delay spenddown to eligibility for publicly funded programs by connecting people to alternative services in their homes before transition to housing with services. Regardless of the consultation, prospective residents maintain the right to choose housing with services or assisted living if that option is their preference.

(b) Transitional consultation services are provided as determined by the commissioner of human services in partnership with county long-term care consultation units, and the Area Agencies on Aging, and are a combination of telephone-based and in-person assistance provided under models developed by the commissioner. The consultation shall be performed in a manner that provides objective and complete information. Transitional consultation must be provided within five working days of the request of the prospective resident as follows:

(1) the consultation must be provided by a qualified professional as determined by the commissioner;

(2) the consultation must include a review of the prospective resident's reasons for considering assisted living, the prospective resident's personal goals, a discussion of the prospective resident's immediate and projected long-term care needs, and alternative community services or assisted living settings that may meet the prospective resident's needs; and

(3) the prospective resident shall be informed of the availability of long-term care consultation services described in subdivision 3a that are available at no charge to the prospective resident to assist the prospective resident in assessment and planning to meet the prospective resident's long-term care needs. The Senior LinkAge Line and long-term care consultation team shall give the highest priority to referrals who are at highest risk of nursing facility placement or as needed for determining eligibility.

Sec. 40. Minnesota Statutes 2008, section 256B.0911, subdivision 4a, is amended to read:

Subd. 4a. **Preadmission screening activities related to nursing facility admissions.** (a) All applicants to Medicaid certified nursing facilities, including certified boarding care facilities, must be screened prior to admission regardless of income, assets, or funding sources for nursing facility care, except as described in subdivision 4b. The purpose of the screening is to determine the need for nursing facility level of care as described in paragraph (d) and to complete activities required under federal law related to mental illness and developmental disability as outlined in paragraph (b).

(b) A person who has a diagnosis or possible diagnosis of mental illness or developmental disability must receive a preadmission screening before admission regardless of the exemptions outlined in subdivision 4b, paragraph (b), to identify the need for further evaluation and specialized services, unless the admission prior to screening is authorized by the local mental health authority or the local developmental disabilities case manager, or unless authorized by the county agency according to Public Law 101-508.

The following criteria apply to the preadmission screening:

(1) the county must use forms and criteria developed by the commissioner to identify persons who require referral for further evaluation and determination of the need for specialized services; and

(2) the evaluation and determination of the need for specialized services must be done by:

(i) a qualified independent mental health professional, for persons with a primary or secondary diagnosis of a serious mental illness; or

(ii) a qualified developmental disability professional, for persons with a primary or secondary diagnosis of developmental disability. For purposes of this requirement, a qualified developmental disability professional must meet the standards for a qualified developmental disability professional under Code of Federal Regulations, title 42, section 483.430.

(c) The local county mental health authority or the state developmental disability authority under Public Law Numbers 100-203 and 101-508 may prohibit admission to a nursing facility if the individual does not meet the nursing facility level of care criteria or needs specialized services as defined in Public Law Numbers 100-203 and 101-508. For purposes of this section, "specialized services" for a person with developmental disability means active treatment as that term is defined under Code of Federal Regulations, title 42, section 483.440 (a)(1).

(d) The determination of the need for nursing facility level of care must be made according to criteria established in section 144.0724, subdivision 11, and 256B.092, using forms developed by the commissioner. In assessing a person's needs, consultation team members shall have a physician available for consultation and shall consider the assessment of the individual's attending physician, if any. The individual's physician must be included if the physician chooses to participate. Other personnel may be included on the team as deemed appropriate by the county.

**EFFECTIVE DATE.** The section is effective January 1, 2011.

Sec. 41. Minnesota Statutes 2008, section 256B.0911, subdivision 5, is amended to read:

Subd. 5. **Administrative activity.** The commissioner shall ~~minimize the number of forms required in the provision of long-term care consultation services and shall limit the screening document to items necessary for community support plan approval, reimbursement, program planning, evaluation, and policy development~~ streamline the processes, including timelines for when assessments need to be completed, required to provide the services in this section and shall implement integrated solutions to automate the business processes to the extent necessary for community support plan approval, reimbursement, program planning, evaluation, and policy development.

Sec. 42. Minnesota Statutes 2008, section 256B.0911, subdivision 6, is amended to read:

Subd. 6. **Payment for long-term care consultation services.** (a) The total payment for each county must be paid monthly by certified nursing facilities in the county. The monthly amount to be paid by each nursing facility for each fiscal year must be determined by dividing the county's annual allocation for long-term care consultation services by 12 to determine the monthly payment and allocating the monthly payment to each nursing facility based on the number of licensed beds in the nursing facility. Payments to counties in which there is no certified nursing facility must be made by increasing the payment rate of the two facilities located nearest to the county seat.

(b) The commissioner shall include the total annual payment determined under paragraph (a) for each nursing facility reimbursed under section 256B.431 or 256B.434 according to section 256B.431, subdivision 2b, paragraph (g).

(c) In the event of the layaway, delicensure and decertification, or removal from layaway of 25 percent or more of the beds in a facility, the commissioner may adjust the per diem payment amount



in paragraph (b) and may adjust the monthly payment amount in paragraph (a). The effective date of an adjustment made under this paragraph shall be on or after the first day of the month following the effective date of the layaway, delicensure and decertification, or removal from layaway.

(d) Payments for long-term care consultation services are available to the county or counties to cover staff salaries and expenses to provide the services described in subdivision 1a. The county shall employ, or contract with other agencies to employ, within the limits of available funding, sufficient personnel to provide long-term care consultation services while meeting the state's long-term care outcomes and objectives as defined in section 256B.0917, subdivision 1. The county shall be accountable for meeting local objectives as approved by the commissioner in the biennial home and community-based services quality assurance plan on a form provided by the commissioner.

(e) Notwithstanding section 256B.0641, overpayments attributable to payment of the screening costs under the medical assistance program may not be recovered from a facility.

(f) The commissioner of human services shall amend the Minnesota medical assistance plan to include reimbursement for the local consultation teams.

(g) The county may bill, as case management services, assessments, support planning, and follow-along provided to persons determined to be eligible for case management under Minnesota health care programs. No individual or family member shall be charged for an initial assessment or initial support plan development provided under subdivision 3a or 3b.

(h) The commissioner shall develop an alternative payment methodology for long-term care consultation services that includes the funding available under this subdivision, and sections 256B.092 and 256B.0659. In developing the new payment methodology, the commissioner shall consider the maximization of federal funding for this activity.

Sec. 43. Minnesota Statutes 2008, section 256B.0911, subdivision 7, is amended to read:

**Subd. 7. Reimbursement for certified nursing facilities.** (a) Medical assistance reimbursement for nursing facilities shall be authorized for a medical assistance recipient only if a preadmission screening has been conducted prior to admission or the county has authorized an exemption. Medical assistance reimbursement for nursing facilities shall not be provided for any recipient who the local screener has determined does not meet the level of care criteria for nursing facility placement in section 144.0724, subdivision 11, or, if indicated, has not had a level II OBRA evaluation as required under the federal Omnibus Budget Reconciliation Act of 1987 completed unless an admission for a recipient with mental illness is approved by the local mental health authority or an admission for a recipient with developmental disability is approved by the state developmental disability authority.

(b) The nursing facility must not bill a person who is not a medical assistance recipient for resident days that preceded the date of completion of screening activities as required under subdivisions 4a, 4b, and 4c. The nursing facility must include unreimbursed resident days in the nursing facility resident day totals reported to the commissioner.

**EFFECTIVE DATE.** The section is effective January 1, 2011.

Sec. 44. Minnesota Statutes 2008, section 256B.0913, subdivision 4, is amended to read:

**Subd. 4. Eligibility for funding for services for nonmedical assistance recipients.** (a) Funding

for services under the alternative care program is available to persons who meet the following criteria:

(1) the person has been determined by a community assessment under section 256B.0911 to be a person who would require the level of care provided in a nursing facility, but for the provision of services under the alternative care program. Effective January 1, 2011, this determination must be made according to the criteria established in section 144.0724, subdivision 11;

(2) the person is age 65 or older;

(3) the person would be eligible for medical assistance within 135 days of admission to a nursing facility;

(4) the person is not ineligible for the payment of long-term care services by the medical assistance program due to an asset transfer penalty under section 256B.0595 or equity interest in the home exceeding \$500,000 as stated in section 256B.056;

(5) the person needs long-term care services that are not funded through other state or federal funding;

(6) except for individuals described in clause (7), the monthly cost of the alternative care services funded by the program for this person does not exceed 75 percent of the monthly limit described under section 256B.0915, subdivision 3a. This monthly limit does not prohibit the alternative care client from payment for additional services, but in no case may the cost of additional services purchased under this section exceed the difference between the client's monthly service limit defined under section 256B.0915, subdivision 3, and the alternative care program monthly service limit defined in this paragraph. If care-related supplies and equipment or environmental modifications and adaptations are or will be purchased for an alternative care services recipient, the costs may be prorated on a monthly basis for up to 12 consecutive months beginning with the month of purchase. If the monthly cost of a recipient's other alternative care services exceeds the monthly limit established in this paragraph, the annual cost of the alternative care services shall be determined. In this event, the annual cost of alternative care services shall not exceed 12 times the monthly limit described in this paragraph; and

(7) for individuals assigned a case mix classification A as described under section 256B.0915, subdivision 3a, paragraph (a), with (i) no dependencies in activities of daily living, (ii) only one dependency in bathing, dressing, grooming, or walking, or (iii) a dependency score of less than three if eating is the only dependency as determined by an assessment performed under section 256B.0911, the monthly cost of alternative care services funded by the program cannot exceed \$600 per month for all new participants enrolled in the program on or after July 1, 2009. This monthly limit shall be applied to all other participants who meet this criteria at reassessment. This monthly limit shall be increased annually as described in section 256B.0915, subdivision 3a, paragraph (a). This monthly limit does not prohibit the alternative care client from payment for additional services, but in no case may the cost of additional services purchased exceed the difference between the client's monthly service limit defined in this clause and the limit described in clause (6) for case mix classification A; and

(8) the person is making timely payments of the assessed monthly fee.

A person is ineligible if payment of the fee is over 60 days past due, unless the person agrees to:

- (i) the appointment of a representative payee;
  - (ii) automatic payment from a financial account;
  - (iii) the establishment of greater family involvement in the financial management of payments;
- or
- (iv) another method acceptable to the lead agency to ensure prompt fee payments.

The lead agency may extend the client's eligibility as necessary while making arrangements to facilitate payment of past-due amounts and future premium payments. Following disenrollment due to nonpayment of a monthly fee, eligibility shall not be reinstated for a period of 30 days.

(b) Alternative care funding under this subdivision is not available for a person who is a medical assistance recipient or who would be eligible for medical assistance without a spenddown or waiver obligation. A person whose initial application for medical assistance and the elderly waiver program is being processed may be served under the alternative care program for a period up to 60 days. If the individual is found to be eligible for medical assistance, medical assistance must be billed for services payable under the federally approved elderly waiver plan and delivered from the date the individual was found eligible for the federally approved elderly waiver plan. Notwithstanding this provision, alternative care funds may not be used to pay for any service the cost of which: (i) is payable by medical assistance; (ii) is used by a recipient to meet a waiver obligation; or (iii) is used to pay a medical assistance income spenddown for a person who is eligible to participate in the federally approved elderly waiver program under the special income standard provision.

(c) Alternative care funding is not available for a person who resides in a licensed nursing home, certified boarding care home, hospital, or intermediate care facility, except for case management services which are provided in support of the discharge planning process for a nursing home resident or certified boarding care home resident to assist with a relocation process to a community-based setting.

(d) Alternative care funding is not available for a person whose income is greater than the maintenance needs allowance under section 256B.0915, subdivision 1d, but equal to or less than 120 percent of the federal poverty guideline effective July 1 in the fiscal year for which alternative care eligibility is determined, who would be eligible for the elderly waiver with a waiver obligation.

Sec. 45. Minnesota Statutes 2008, section 256B.0915, subdivision 3a, is amended to read:

**Subd. 3a. Elderly waiver cost limits.** (a) The monthly limit for the cost of waived services to an individual elderly waiver client except for individuals described in paragraph (b) shall be the weighted average monthly nursing facility rate of the case mix resident class to which the elderly waiver client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, less the recipient's maintenance needs allowance as described in subdivision 1d, paragraph (a), until the first day of the state fiscal year in which the resident assessment system as described in section 256B.438 for nursing home rate determination is implemented. Effective on the first day of the state fiscal year in which the resident assessment system as described in section 256B.438 for nursing home rate determination is implemented and the first day of each subsequent state fiscal year, the monthly limit for the cost of waived services to an individual elderly waiver client shall be the rate of the case mix resident class to which the waiver client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, in effect on the last day of the previous state fiscal year, adjusted

by the greater of any legislatively adopted home and community-based services percentage rate increase or the average statewide percentage increase in nursing facility payment rates.

(b) The monthly limit for the cost of waived services to an individual elderly waiver client assigned to a case mix classification A under paragraph (a) with (1) no dependencies in activities of daily living, (2) only one dependency in bathing, dressing, grooming, or walking, or (3) a dependency score of less than three if eating is the only dependency, shall be the lower of the case mix classification amount for case mix A as determined under paragraph (a) or the case mix classification amount for case mix A effective on October 1, 2008, per month for all new participants enrolled in the program on or after July 1, 2009. This monthly limit shall be applied to all other participants who meet this criteria at reassessment.

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

Sec. 46. Minnesota Statutes 2008, section 256B.0915, subdivision 3e, is amended to read:

**Subd. 3e. Customized living service rate.** (a) Payment for customized living services shall be a monthly rate ~~negotiated and~~ authorized by the lead agency within the parameters established by the commissioner. The payment agreement must delineate the ~~services that have been customized for each recipient and specify the amount of each component service included in the recipient's customized living service to be provided plan.~~ services to be provided plan. The lead agency shall ensure that there is a documented need ~~for all~~ within the parameters established by the commissioner for all component customized living services authorized. ~~Customized living services must not include rent or raw food costs.~~

(b) The negotiated payment rate must be based on the amount of component services to be provided utilizing component rates established by the commissioner. Counties and tribes shall use tools issued by the commissioner to develop and document customized living service plans and rates.

~~Negotiated~~ (c) Component service rates must not exceed payment rates for comparable elderly waiver or medical assistance services and must reflect economies of scale. Customized living services must not include rent or raw food costs.

~~(b)~~ (d) The individualized monthly ~~negotiated~~ authorized payment for the customized living ~~services service plan shall not exceed the nonfederal share, in effect on July 1 of the state fiscal year for which the rate limit is being calculated,~~ 50 percent of the greater of either the statewide or any of the geographic groups' weighted average monthly nursing facility rate of the case mix resident class to which the elderly waiver eligible client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, less the maintenance needs allowance as described in subdivision 1d, paragraph (a), until the July 1 of the state fiscal year in which the resident assessment system as described in section 256B.438 for nursing home rate determination is implemented. Effective on July 1 of the state fiscal year in which the resident assessment system as described in section 256B.438 for nursing home rate determination is implemented and July 1 of each subsequent state fiscal year, the individualized monthly negotiated authorized payment for the services described in

~~this clause shall not exceed the limit described in this clause which was in effect on June 30 of the previous state fiscal year and which has been adjusted by the greater of any legislatively adopted home and community-based services cost-of-living percentage increase or any legislatively adopted statewide percent rate increase for nursing facilities updated annually based on legislatively adopted changes to all service rate maximums for home and community-based service providers.~~

~~(e)~~ (e) Customized living services are delivered by a provider licensed by the Department of Health as a class A or class F home care provider and provided in a building that is registered as a housing with services establishment under chapter 144D.

Sec. 47. Minnesota Statutes 2008, section 256B.0915, subdivision 3h, is amended to read:

Subd. 3h. **Service rate limits; 24-hour customized living services.** (a) ~~The payment rates rate~~ for 24-hour customized living services is a monthly rate ~~negotiated and~~ authorized by the lead agency within the parameters established by the commissioner of human services. The payment agreement must delineate the ~~services that have been customized for each recipient and specify~~ the amount of each component service included in each recipient's customized living service ~~to be provided plan~~. The lead agency shall ensure that there is a documented need within the parameters established by the commissioner for all component customized living services authorized. The lead agency shall not authorize 24-hour customized living services unless there is a documented need for 24-hour supervision.

(b) For purposes of this section, "24-hour supervision" means that the recipient requires assistance due to needs related to one or more of the following:

- (1) intermittent assistance with toileting, positioning, or transferring;
- (2) cognitive or behavioral issues;
- (3) a medical condition that requires clinical monitoring; or

(4) ~~other conditions or needs as defined by the commissioner of human services for all new participants enrolled in the program on or after January 1, 2011, and all other participants at their first reassessment after January 1, 2011, dependency in at least two of the following activities of daily living as determined by assessment under section 256B.0911: bathing; dressing; grooming; walking; or eating; and needs medication management and at least 50 hours of service per month.~~ The lead agency shall ensure that the frequency and mode of supervision of the recipient and the qualifications of staff providing supervision are described and meet the needs of the recipient. ~~Customized living services must not include rent or raw food costs.~~

(c) ~~The negotiated~~ payment rate for 24-hour customized living services must be based on the amount of component services to be provided utilizing component rates established by the commissioner. Counties and tribes will use tools issued by the commissioner to develop and document customized living plans and authorize rates.

~~Negotiated~~ (d) Component service rates must not exceed payment rates for comparable elderly waiver or medical assistance services and must reflect economies of scale.

(e) The individually ~~negotiated~~ authorized 24-hour customized living payments, in combination with the payment for other elderly waiver services, including case management, must not exceed the recipient's community budget cap specified in subdivision 3a. Customized living services must

not include rent or raw food costs.

(f) The individually authorized 24-hour customized living payment rates shall not exceed the 95 percentile of statewide monthly authorizations for 24-hour customized living services in effect and in the Medicaid management information systems on March 31, 2009, for each case mix resident class under Minnesota Rules, parts 9549.0050 to 9549.0059, to which elderly waiver service clients are assigned. When there are fewer than 50 authorizations in effect in the case mix resident class, the commissioner shall multiply the calculated service payment rate maximum for the A classification by the standard weight for that classification under Minnesota Rules, parts 9549.0050 to 9549.0059, to determine the applicable payment rate maximum. Service payment rate maximums shall be updated annually based on legislatively adopted changes to all service rates for home and community-based service providers.

(g) Notwithstanding the requirements of paragraphs (d) and (f), the commissioner may establish alternative payment rate systems for 24-hour customized living services in housing with services establishments which are freestanding buildings with a capacity of 16 or fewer, by applying a single hourly rate for covered component services provided in either:

(1) licensed corporate adult foster homes; or

(2) specialized dementia care units which meet the requirements of section 144D.065 and in which:

(i) each resident is offered the option of having their own apartment; or

(ii) the units are licensed as board and lodge establishments with maximum capacity of eight residents, and which meet the requirements of Minnesota Rules, part 9555.6205, subparts 1, 2, 3, and 4, item A.

Sec. 48. Minnesota Statutes 2008, section 256B.0915, subdivision 5, is amended to read:

**Subd. 5. Assessments and reassessments for waiver clients.** (a) Each client shall receive an initial assessment of strengths, informal supports, and need for services in accordance with section 256B.0911, subdivisions 3, 3a, and 3b. A reassessment of a client served under the elderly waiver must be conducted at least every 12 months and at other times when the case manager determines that there has been significant change in the client's functioning. This may include instances where the client is discharged from the hospital. There must be a determination that the client requires nursing facility level of care as defined in section 144.0724, subdivision 11, at initial and subsequent assessments to initiate and maintain participation in the waiver program.

(b) Regardless of other assessments identified in section 144.0724, subdivision 4, as appropriate to determine nursing facility level of care for purposes of medical assistance payment for nursing facility services, only face-to-face assessments conducted according to section 256B.0911, subdivisions 3a and 3b, that result in a nursing facility level of care determination will be accepted for purposes of initial and ongoing access to waiver service payment.

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

Sec. 49. Minnesota Statutes 2008, section 256B.0915, is amended by adding a subdivision to read:

Subd. 10. **Waiver payment rates; managed care organizations.** The commissioner shall adjust the elderly waiver capitation payment rates for managed care organizations paid under section 256B.69, subdivisions 6a and 23, to reflect the maximum service rate limits for customized living services and 24-hour customized living services under subdivisions 3e and 3h for the contract period beginning October 1, 2009. Medical assistance rates paid to customized living providers by managed care organizations under this section shall not exceed the maximum service rate limits determined by the commissioner under subdivisions 3e and 3h.

Sec. 50. Minnesota Statutes 2008, section 256B.0916, subdivision 2, is amended to read:

Subd. 2. **Distribution of funds; partnerships.** (a) Beginning with fiscal year 2000, the commissioner shall distribute all funding available for home and community-based waiver services for persons with developmental disabilities to individual counties or to groups of counties that form partnerships to jointly plan, administer, and authorize funding for eligible individuals. The commissioner shall encourage counties to form partnerships that have a sufficient number of recipients and funding to adequately manage the risk and maximize use of available resources.

(b) Counties must submit a request for funds and a plan for administering the program as required by the commissioner. The plan must identify the number of clients to be served, their ages, and their priority listing based on:

(1) requirements in Minnesota Rules, part 9525.1880; and

~~(2) unstable living situations due to the age or incapacity of the primary caregiver; statewide priorities identified in section 256B.092, subdivision 12.~~

~~(3) the need for services to avoid out-of-home placement of children;~~

~~(4) the need to serve persons affected by private sector ICF/MR closures; and~~

~~(5) the need to serve persons whose consumer support grant exception amount was eliminated in 2004.~~

The plan must also identify changes made to improve services to eligible persons and to improve program management.

(c) In allocating resources to counties, priority must be given to groups of counties that form partnerships to jointly plan, administer, and authorize funding for eligible individuals and to counties determined by the commissioner to have sufficient waiver capacity to maximize resource use.

(d) Within 30 days after receiving the county request for funds and plans, the commissioner shall provide a written response to the plan that includes the level of resources available to serve additional persons.

(e) Counties are eligible to receive medical assistance administrative reimbursement for administrative costs under criteria established by the commissioner.

Sec. 51. Minnesota Statutes 2008, section 256B.0917, is amended by adding a subdivision to read:

Subd. 14. **Essential community supports grants.** (a) The purpose of the essential community supports grant program is to provide targeted services to persons 65 years and older who need

essential community support, but whose needs do not meet the level of care required for nursing facility placement under section 144.0724, subdivision 11.

(b) Within the limits of the appropriation and not to exceed \$400 per person per month, funding must be available to a person who:

(1) is age 65 or older;

(2) is not eligible for medical assistance;

(3) would otherwise be financially eligible for the alternative care program under section 256B.0913, subdivision 4;

(4) has received a community assessment under section 256B.0911, subdivision 3a or 3b, and does not require the level of care provided in a nursing facility;

(5) has a community support plan; and

(6) has been determined by a community assessment under section 256B.0911, subdivision 3a or 3b, to be a person who would require provision of at least one of the following services, as defined in the approved elderly waiver plan, in order to maintain their community residence:

(i) caregiver support;

(ii) homemaker;

(iii) chore; or

(iv) a personal emergency response device or system.

(c) The person receiving any of the essential community supports in this subdivision must also receive service coordination as part of their community support plan.

(d) A person who has been determined to be eligible for an essential community support grant must be reassessed at least annually and continue to meet the criteria in paragraph (b) to remain eligible for an essential community support grant.

(e) The commissioner shall allocate grants to counties and tribes under contract with the department based upon the historic use of the medical assistance elderly waiver and alternative care grant programs and other criteria as determined by the commissioner.

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

Sec. 52. Minnesota Statutes 2008, section 256B.092, subdivision 8a, is amended to read:

Subd. 8a. **County concurrence.** (a) If the county of financial responsibility wishes to place a person in another county for services, the county of financial responsibility shall seek concurrence from the proposed county of service and the placement shall be made cooperatively between the two counties. Arrangements shall be made between the two counties for ongoing social service, including annual reviews of the person's individual service plan. The county where services are provided may not make changes in the person's service plan without approval by the county of financial responsibility.

(b) When a person has been screened and authorized for services in an intermediate care facility



for persons with developmental disabilities or for home and community-based services for persons with developmental disabilities, the case manager shall assist that person in identifying a service provider who is able to meet the needs of the person according to the person's individual service plan. If the identified service is to be provided in a county other than the county of financial responsibility, the county of financial responsibility shall request concurrence of the county where the person is requesting to receive the identified services. The county of service may refuse to concur if:

(1) it can demonstrate that the provider is unable to provide the services identified in the person's individual service plan as services that are needed and are to be provided; or

(2) in the case of an intermediate care facility for persons with developmental disabilities, there has been no authorization for admission by the admission review team as required in section 256B.0926; or

~~(3) in the case of home and community-based services for persons with developmental disabilities, the county of service can demonstrate that the prospective provider has failed to substantially comply with the terms of a past contract or has had a prior contract terminated within the last 12 months for failure to provide adequate services, or has received a notice of intent to terminate the contract.~~

(c) The county of service shall notify the county of financial responsibility of concurrence or refusal to concur no later than 20 working days following receipt of the written request. Unless other mutually acceptable arrangements are made by the involved county agencies, the county of financial responsibility is responsible for costs of social services and the costs associated with the development and maintenance of the placement. The county of service may request that the county of financial responsibility purchase case management services from the county of service or from a contracted provider of case management when the county of financial responsibility is not providing case management as defined in this section and rules adopted under this section, unless other mutually acceptable arrangements are made by the involved county agencies. Standards for payment limits under this section may be established by the commissioner. Financial disputes between counties shall be resolved as provided in section 256G.09.

Sec. 53. Minnesota Statutes 2008, section 256B.092, is amended by adding a subdivision to read:

Subd. 11. Residential support services. (a) Upon federal approval, there is established a new service called residential support that is available on the CAC, CADI, DD, and TBI waivers. Existing waiver service descriptions must be modified to the extent necessary to ensure there is no duplication between other services. Residential support services must be provided by vendors licensed as a community residential setting as defined in section 245A.11, subdivision 8.

(b) Residential support services must meet the following criteria:

(1) providers of residential support services must own or control the residential site;

(2) the residential site must not be the primary residence of the license holder;

(3) the residential site must have a designated program supervisor responsible for program oversight, development, and implementation of policies and procedures;

(4) the provider of residential support services must provide supervision, training, and assistance as described in the person's community support plan; and

(5) the provider of residential support services must meet the requirements of licensure and additional requirements of the person's community support plan.

(c) Providers of residential support services that meet the definition in paragraph (a) must be registered using a process determined by the commissioner beginning July 1, 2009.

Sec. 54. Minnesota Statutes 2008, section 256B.092, is amended by adding a subdivision to read:

Subd. 12. **Waivered services statewide priorities.** (a) The commissioner shall establish statewide priorities for individuals on the waiting list for developmental disabilities (DD) waiver services, as of January 1, 2010. The statewide priorities must include, but are not limited to, individuals who continue to have a need for waiver services after they have maximized the use of state plan services and other funding resources, including natural supports, prior to accessing waiver services, and who meet at least one of the following criteria:

(1) have unstable living situations due to the age, incapacity, or sudden loss of the primary caregivers;

(2) are moving from an institution due to bed closures;

(3) experience a sudden closure of their current living arrangement;

(4) require protection from confirmed abuse, neglect, or exploitation;

(5) experience a sudden change in need that can no longer be met through state plan services or other funding resources alone; or

(6) meet other priorities established by the department.

(b) When allocating resources to lead agencies, the commissioner must take into consideration the number of individuals waiting who meet statewide priorities and the lead agencies' current use of waiver funds and existing service options.

(c) The commissioner shall evaluate the impact of the use of statewide priorities and provide recommendations to the legislature on whether to continue the use of statewide priorities in the November 1, 2011, annual report required by the commissioner in sections 256B.0916, subdivision 7, and 256B.49, subdivision 21.

Sec. 55. [256B.0948] FOSTER CARE RATE LIMITS.

The commissioner shall decrease by five percent rates for adult foster care and supportive living services that are reimbursed under section 256B.092 or 256B.49, and are above the 95th percentile of the statewide rates for the service. The reduction in rates shall take into account the acuity of individuals served based on the methodology used to allocate dollars to local lead agency budgets, and assure that affected service rates are not reduced below the rate level represented by the above percentile due to this rate change. Lead agency contracts for services specified in this section shall be amended to implement these rate changes for services rendered on or after July 1, 2009. The commissioner shall make corresponding reductions to waiver allocations and capitated rates.

Sec. 56. Minnesota Statutes 2008, section 256B.37, subdivision 1, is amended to read:

Subdivision 1. **Subrogation.** Upon furnishing medical assistance or alternative care services

under section 256B.0913 to any person who has private accident or health care coverage, or receives or has a right to receive health or medical care from any type of organization or entity, or has a cause of action arising out of an occurrence that necessitated the payment of medical assistance, the state agency or the state agency's agent shall be subrogated, to the extent of the cost of medical care furnished, to any rights the person may have under the terms of the coverage, or against the organization or entity providing or liable to provide health or medical care, or under the cause of action.

The right of subrogation created in this section includes all portions of the cause of action, notwithstanding any settlement allocation or apportionment that purports to dispose of portions of the cause of action not subject to subrogation.

Sec. 57. Minnesota Statutes 2008, section 256B.37, subdivision 5, is amended to read:

**Subd. 5. Private benefits to be used first.** Private accident and health care coverage including Medicare for medical services is primary coverage and must be exhausted before medical assistance ~~is or alternative care services are paid for medical services including home health care, personal care assistant services, hospice, supplies and equipment,~~ or services covered under a Centers for Medicare and Medicaid Services waiver. When a person who is otherwise eligible for medical assistance has private accident or health care coverage, including Medicare or a prepaid health plan, the private health care benefits available to the person must be used first and to the fullest extent.

Sec. 58. Minnesota Statutes 2008, section 256B.434, subdivision 4, is amended to read:

**Subd. 4. Alternate rates for nursing facilities.** (a) For nursing facilities which have their payment rates determined under this section rather than section 256B.431, the commissioner shall establish a rate under this subdivision. The nursing facility must enter into a written contract with the commissioner.

(b) A nursing facility's case mix payment rate for the first rate year of a facility's contract under this section is the payment rate the facility would have received under section 256B.431.

(c) A nursing facility's case mix payment rates for the second and subsequent years of a facility's contract under this section are the previous rate year's contract payment rates plus an inflation adjustment and, for facilities reimbursed under this section or section 256B.431, an adjustment to include the cost of any increase in Health Department licensing fees for the facility taking effect on or after July 1, 2001. The index for the inflation adjustment must be based on the change in the Consumer Price Index-All Items (United States City average) (CPI-U) forecasted by the commissioner of finance's national economic consultant, as forecasted in the fourth quarter of the calendar year preceding the rate year. The inflation adjustment must be based on the 12-month period from the midpoint of the previous rate year to the midpoint of the rate year for which the rate is being determined. For the rate years beginning on July 1, 1999, July 1, 2000, July 1, 2001, July 1, 2002, July 1, 2003, July 1, 2004, July 1, 2005, July 1, 2006, July 1, 2007, July 1, 2008, October 1, 2009, ~~and~~ October 1, 2010, October 1, 2011, and October 1, 2012. This paragraph shall apply only to the property-related payment rate, except that adjustments to include the cost of any increase in Health Department licensing fees taking effect on or after July 1, 2001, shall be provided. Beginning in 2005, adjustment to the property payment rate under this section and section 256B.431 shall be effective on October 1. In determining the amount of the property-related payment rate adjustment under this paragraph, the commissioner shall determine the proportion of the facility's rates that are property-related based on the facility's most recent cost report.

(d) The commissioner shall develop additional incentive-based payments of up to five percent above a facility's operating payment rate for achieving outcomes specified in a contract. The commissioner may solicit contract amendments and implement those which, on a competitive basis, best meet the state's policy objectives. The commissioner shall limit the amount of any incentive payment and the number of contract amendments under this paragraph to operate the incentive payments within funds appropriated for this purpose. The contract amendments may specify various levels of payment for various levels of performance. Incentive payments to facilities under this paragraph may be in the form of time-limited rate adjustments or onetime supplemental payments. In establishing the specified outcomes and related criteria, the commissioner shall consider the following state policy objectives:

(1) successful diversion or discharge of residents to the residents' prior home or other community-based alternatives;

(2) adoption of new technology to improve quality or efficiency;

(3) improved quality as measured in the Nursing Home Report Card;

(4) reduced acute care costs; and

(5) any additional outcomes proposed by a nursing facility that the commissioner finds desirable.

(e) Notwithstanding the threshold in section 256B.431, subdivision 16, facilities that take action to come into compliance with existing or pending requirements of the life safety code provisions or federal regulations governing sprinkler systems must receive reimbursement for the costs associated with compliance if all of the following conditions are met:

(1) the expenses associated with compliance occurred on or after January 1, 2005, and before December 31, 2008;

(2) the costs were not otherwise reimbursed under subdivision 4f or section 144A.071 or 144A.073; and

(3) the total allowable costs reported under this paragraph are less than the minimum threshold established under section 256B.431, subdivision 15, paragraph (e), and subdivision 16.

The commissioner shall use money appropriated for this purpose to provide to qualifying nursing facilities a rate adjustment beginning October 1, 2007, and ending September 30, 2008. Nursing facilities that have spent money or anticipate the need to spend money to satisfy the most recent life safety code requirements by (1) installing a sprinkler system or (2) replacing all or portions of an existing sprinkler system may submit to the commissioner by June 30, 2007, on a form provided by the commissioner the actual costs of a completed project or the estimated costs, based on a project bid, of a planned project. The commissioner shall calculate a rate adjustment equal to the allowable costs of the project divided by the resident days reported for the report year ending September 30, 2006. If the costs from all projects exceed the appropriation for this purpose, the commissioner shall allocate the money appropriated on a pro rata basis to the qualifying facilities by reducing the rate adjustment determined for each facility by an equal percentage. Facilities that used estimated costs when requesting the rate adjustment shall report to the commissioner by January 31, 2009, on the use of this money on a form provided by the commissioner. If the nursing facility fails to provide the report, the commissioner shall recoup the money paid to the facility for this purpose. If the facility reports expenditures allowable under this subdivision that are less than the amount received in the

facility's annualized rate adjustment, the commissioner shall recoup the difference.

Sec. 59. Minnesota Statutes 2008, section 256B.434, is amended by adding a subdivision to read:

Subd. 21. **Payment of post-PERA pension benefit costs.** Nursing facilities that convert or converted after September 30, 2006, from public to private ownership shall have a portion of their post-PERA pension costs treated as a component of the historic operating rate. Effective for the rate years beginning on or after October 1, 2009, and prior to October 1, 2016, the commissioner shall determine the pension costs to be included in the facility's base for determining rates under this section by using the following formula: post-privatization pension benefit costs as a percent of salary shall be determined from either the cost report for the first full reporting year after privatization or the most recent report year available, whichever is later. This percentage shall be applied to the salary costs of the alternative payment system base rate year to determine the allowable amount of pension costs. The adjustments provided for in sections 256B.431, 256B.434, 256B.441, and any other law enacted after the base rate year and prior to the year for which rates are being determined shall be applied to the allowable amount. The adjusted allowable amount shall be added to the operating rate effective the first rate year PERA ceases to remain as a pass-through component of the rate.

Sec. 60. Minnesota Statutes 2008, section 256B.437, subdivision 6, is amended to read:

Subd. 6. **Planned closure rate adjustment.** (a) The commissioner of human services shall calculate the amount of the planned closure rate adjustment available under subdivision 3, paragraph (b), for up to 5,140 beds according to clauses (1) to (4):

- (1) the amount available is the net reduction of nursing facility beds multiplied by \$2,080;
  - (2) the total number of beds in the nursing facility or facilities receiving the planned closure rate adjustment must be identified;
  - (3) capacity days are determined by multiplying the number determined under clause (2) by 365; and
  - (4) the planned closure rate adjustment is the amount available in clause (1), divided by capacity days determined under clause (3).
- (b) A planned closure rate adjustment under this section is effective on the first day of the month following completion of closure of the facility designated for closure in the application and becomes part of the nursing facility's total operating payment rate.
- (c) Applicants may use the planned closure rate adjustment to allow for a property payment for a new nursing facility or an addition to an existing nursing facility or as an operating payment rate adjustment. Applications approved under this subdivision are exempt from other requirements for moratorium exceptions under section 144A.073, subdivisions 2 and 3.
- (d) Upon the request of a closing facility, the commissioner must allow the facility a closure rate adjustment as provided under section 144A.161, subdivision 10.
- (e) A facility that has received a planned closure rate adjustment may reassign it to another facility that is under the same ownership at any time within three years of its effective date. The amount of the adjustment shall be computed according to paragraph (a).
- (f) If the per bed dollar amount specified in paragraph (a), clause (1), is increased, the

commissioner shall recalculate planned closure rate adjustments for facilities that delicense beds under this section on or after July 1, 2001, to reflect the increase in the per bed dollar amount. The recalculated planned closure rate adjustment shall be effective from the date the per bed dollar amount is increased.

(g) For planned closures approved after June 30, 2009, the commissioner of human services shall calculate the amount of the planned closure rate adjustment available under subdivision 3, paragraph (b), according to paragraph (a), clauses (1) to (4).

Sec. 61. Minnesota Statutes 2008, section 256B.441, subdivision 55, is amended to read:

**Subd. 55. Phase-in of rebased operating payment rates.** (a) For the rate years beginning October 1, 2008, to October 1, 2015, the operating payment rate calculated under this section shall be phased in by blending the operating rate with the operating payment rate determined under section 256B.434. For purposes of this subdivision, the rate to be used that is determined under section 256B.434 shall not include the portion of the operating payment rate related to performance-based incentive payments under section 256B.434, subdivision 4, paragraph (d). For the rate year beginning October 1, 2008, the operating payment rate for each facility shall be 13 percent of the operating payment rate from this section, and 87 percent of the operating payment rate from section 256B.434. For the rate year period beginning October 1, 2009, through September 30, 2013, the operating payment rate for each facility shall be 14 percent of the operating payment rate from this section, and 86 percent of the operating payment rate from section 256B.434. ~~For the rate year beginning October 1, 2010, the operating payment rate for each facility shall be 14 percent of the operating payment rate from this section, and 86 percent of the operating payment rate from section 256B.434. For the rate year beginning October 1, 2011, the operating payment rate for each facility shall be 31 percent of the operating payment rate from this section, and 69 percent of the operating payment rate from section 256B.434. For the rate year beginning October 1, 2012, the operating payment rate for each facility shall be 48 percent of the operating payment rate from this section, and 52 percent of the operating payment rate from section 256B.434.~~ For the rate year beginning October 1, 2013, the operating payment rate for each facility shall be 65 percent of the operating payment rate from this section, and 35 percent of the operating payment rate from section 256B.434. For the rate year beginning October 1, 2014, the operating payment rate for each facility shall be 82 percent of the operating payment rate from this section, and 18 percent of the operating payment rate from section 256B.434. For the rate year beginning October 1, 2015, the operating payment rate for each facility shall be the operating payment rate determined under this section. The blending of operating payment rates under this section shall be performed separately for each RUG's class.

(b) For the rate year beginning October 1, 2008, the commissioner shall apply limits to the operating payment rate increases under paragraph (a) by creating a minimum percentage increase and a maximum percentage increase.

(1) Each nursing facility that receives a blended October 1, 2008, operating payment rate increase under paragraph (a) of less than one percent, when compared to its operating payment rate on September 30, 2008, computed using rates with RUG's weight of 1.00, shall receive a rate adjustment of one percent.

(2) The commissioner shall determine a maximum percentage increase that will result in savings equal to the cost of allowing the minimum increase in clause (1). Nursing facilities with a blended

October 1, 2008, operating payment rate increase under paragraph (a) greater than the maximum percentage increase determined by the commissioner, when compared to its operating payment rate on September 30, 2008, computed using rates with a RUG's weight of 1.00, shall receive the maximum percentage increase.

(3) Nursing facilities with a blended October 1, 2008, operating payment rate increase under paragraph (a) greater than one percent and less than the maximum percentage increase determined by the commissioner, when compared to its operating payment rate on September 30, 2008, computed using rates with a RUG's weight of 1.00, shall receive the blended October 1, 2008, operating payment rate increase determined under paragraph (a).

(4) The October 1, 2009, through October 1, 2015, operating payment rate for facilities receiving the maximum percentage increase determined in clause (2) shall be the amount determined under paragraph (a) less the difference between the amount determined under paragraph (a) for October 1, 2008, and the amount allowed under clause (2). This rate restriction does not apply to rate increases provided in any other section.

(c) A portion of the funds received under this subdivision that are in excess of operating payment rates that a facility would have received under section 256B.434, as determined in accordance with clauses (1) to (3), shall be subject to the requirements in section 256B.434, subdivision 19, paragraphs (b) to (h).

(1) Determine the amount of additional funding available to a facility, which shall be equal to total medical assistance resident days from the most recent reporting year times the difference between the blended rate determined in paragraph (a) for the rate year being computed and the blended rate for the prior year.

(2) Determine the portion of all operating costs, for the most recent reporting year, that are compensation related. If this value exceeds 75 percent, use 75 percent.

(3) Subtract the amount determined in clause (2) from 75 percent.

(4) The portion of the fund received under this subdivision that shall be subject to the requirements in section 256B.434, subdivision 19, paragraphs (b) to (h), shall equal the amount determined in clause (1) times the amount determined in clause (3).

Sec. 62. Minnesota Statutes 2008, section 256B.441, subdivision 58, is amended to read:

**Subd. 58. Implementation delay.** Within six months prior to the effective date of (1) rebasing of property payment rates under subdivision 1; (2) quality-based rate limits under subdivision 50; and (3) the removal of planned closure rate adjustments and single bed room incentives from external fixed costs under subdivision 53, the commissioner shall compare the average operating cost for all facilities combined from the most recent cost reports to the average medical assistance operating payment rates for all facilities combined from the same time period. Each provision shall not go into effect until the average medical assistance operating payment rate is at least 92 percent of the average operating cost. The rebasing of property payment rates under subdivision 1, and the removal of planned closure rate adjustments and single-bed room incentives from external fixed costs under subdivision 53 shall not go into effect until 82 percent of the operating payment rate from this section is phased in as described in subdivision 55.

Sec. 63. Minnesota Statutes 2008, section 256B.441, is amended by adding a subdivision to read:

Subd. 59. **Single-bed payments for medical assistance recipients.** Effective October 1, 2009, the amount paid for a private room under Minnesota Rules, part 9549.0070, subpart 3, is reduced from 115 percent to 111.5 percent.

Sec. 64. Minnesota Statutes 2008, section 256B.49, is amended by adding a subdivision to read:

Subd. 11a. **Waivered services waiting list.** (a) The commissioner shall establish statewide priorities for individuals on the waiting list for CAC, CADI, and TBI waiver services, as of January 1, 2010. The statewide priorities must include, but are not limited to, individuals who continue to have a need for waiver services after they have maximized the use of state plan services and other funding resources, including natural supports, prior to accessing waiver services, and who meet at least one of the following criteria:

(1) have unstable living situations due to the age, incapacity, or sudden loss of the primary caregivers;

(2) are moving from an institution due to bed closures;

(3) experience a sudden closure of their current living arrangement;

(4) require protection from confirmed abuse, neglect, or exploitation;

(5) experience a sudden change in need that can no longer be met through state plan services or other funding resources alone; or

(6) meet other priorities established by the department.

(b) When allocating resources to lead agencies, the commissioner must take into consideration the number of individuals waiting who meet statewide priorities and the lead agencies' current use of waiver funds and existing service options.

(c) The commissioner shall evaluate the impact of the use of statewide priorities and provide recommendations to the legislature on whether to continue the use of statewide priorities in the November 1, 2011, annual report required by the commissioner in sections 256B.0916, subdivision 7, and 256B.49, subdivision 21.

Sec. 65. Minnesota Statutes 2008, section 256B.49, subdivision 12, is amended to read:

Subd. 12. **Informed choice.** Persons who are determined likely to require the level of care provided in a nursing facility as determined under sections 144.0724, subdivision 11, and 256B.0911, or hospital shall be informed of the home and community-based support alternatives to the provision of inpatient hospital services or nursing facility services. Each person must be given the choice of either institutional or home and community-based services using the provisions described in section 256B.77, subdivision 2, paragraph (p).

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

Sec. 66. Minnesota Statutes 2008, section 256B.49, subdivision 13, is amended to read:

Subd. 13. **Case management.** (a) Each recipient of a home and community-based waiver shall be provided case management services by qualified vendors as described in the federally approved waiver application. The case management service activities provided will include:



- (1) assessing the needs of the individual within 20 working days of a recipient's request;
- (2) developing the written individual service plan within ten working days after the assessment is completed;
- (3) informing the recipient or the recipient's legal guardian or conservator of service options;
- (4) assisting the recipient in the identification of potential service providers;
- (5) assisting the recipient to access services;
- (6) coordinating, evaluating, and monitoring of the services identified in the service plan;
- (7) completing the annual reviews of the service plan; and
- (8) informing the recipient or legal representative of the right to have assessments completed and service plans developed within specified time periods, and to appeal county action or inaction under section 256.045, subdivision 3, including the determination of nursing facility level of care.

(b) The case manager may delegate certain aspects of the case management service activities to another individual provided there is oversight by the case manager. The case manager may not delegate those aspects which require professional judgment including assessments, reassessments, and care plan development.

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

Sec. 67. Minnesota Statutes 2008, section 256B.49, subdivision 14, is amended to read:

Subd. 14. **Assessment and reassessment.** (a) Assessments of each recipient's strengths, informal support systems, and need for services shall be completed within 20 working days of the recipient's request. Reassessment of each recipient's strengths, support systems, and need for services shall be conducted at least every 12 months and at other times when there has been a significant change in the recipient's functioning.

(b) There must be a determination that the client requires a hospital level of care or a nursing facility level of care as defined in section 144.0724, subdivision 11, at initial and subsequent assessments to initiate and maintain participation in the waiver program.

(c) Regardless of other assessments identified in section 144.0724, subdivision 4, as appropriate to determine nursing facility level of care for purposes of medical assistance payment for nursing facility services, only face-to-face assessments conducted according to section 256B.0911, subdivisions 3a, 3b, and 4d, that result in a hospital level of care determination or a nursing facility level of care determination must be accepted for purposes of initial and ongoing access to waiver services payment.

(d) Persons with developmental disabilities who apply for services under the nursing facility level waiver programs shall be screened for the appropriate level of care according to section 256B.092.

~~(e)~~ (e) Recipients who are found eligible for home and community-based services under this section before their 65th birthday may remain eligible for these services after their 65th birthday if they continue to meet all other eligibility factors.

**EFFECTIVE DATE.** The section is effective January 1, 2011.

Sec. 68. Minnesota Statutes 2008, section 256B.49, is amended by adding a subdivision to read:

Subd. 22. **Residential support services.** For the purposes of this section, the provisions of section 256B.092, subdivision 11, are controlling.

Sec. 69. **[256B.4912] HOME AND COMMUNITY-BASED WAIVERS; PROVIDERS AND PAYMENT.**

Subdivision 1. **Provider qualifications.** For the home and community-based waivers providing services to seniors and individuals with disabilities, the commissioner shall establish:

(1) agreements with enrolled waiver service providers to ensure providers meet qualifications defined in the waiver plans;

(2) regular reviews of provider qualifications; and

(3) processes to gather the necessary information to determine provider qualifications.

By July 2010, staff that provide direct contact, as defined in section 245C.02, subdivision 11, that are employees of waiver service providers must meet the requirements of chapter 245C prior to providing waiver services and as part of ongoing enrollment. Upon federal approval, this requirement must also apply to consumer-directed community supports.

Subd. 2. **Rate-setting methodologies.** The commissioner shall establish statewide rate-setting methodologies that meet federal waiver requirements for home and community-based waiver services for individuals with disabilities. The rate-setting methodologies must abide by the principles of transparency and equitability across the state. The methodologies must involve a uniform process of structuring rates for each service and must promote quality and participant choice.

Sec. 70. 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. 71. Minnesota Statutes 2008, section 256B.5012, is amended by adding a subdivision to read:

Subd. 8. **ICF/MR rate decreases effective July 1, 2009.** Effective July 1, 2009, the commissioner shall decrease each facility reimbursed under this section operating payment adjustments equal to 2.58 percent of the operating payment rates in effect on June 30, 2009. For each facility, the commissioner shall implement the rate reduction, based on occupied beds, using the percentage specified in this subdivision multiplied by the total payment rate, including the variable rate but excluding the property-related payment rate, in effect on the preceding date. The total rate reduction shall include the adjustment provided in section 256B.502, subdivision 7.

Sec. 72. Minnesota Statutes 2008, section 256B.69, subdivision 5a, is amended to read:

Subd. 5a. **Managed care contracts.** (a) Managed care contracts under this section and sections 256L.12 and 256D.03, shall be entered into or renewed on a calendar year basis beginning January 1, 1996. Managed care contracts which were in effect on June 30, 1995, and set to renew on July 1, 1995, shall be renewed for the period July 1, 1995 through December 31, 1995 at the same terms that were in effect on June 30, 1995. The commissioner may issue separate contracts with requirements specific to services to medical assistance recipients age 65 and older.

(b) A prepaid health plan providing covered health services for eligible persons pursuant to chapters 256B, 256D, and 256L, is responsible for complying with the terms of its contract with the commissioner. Requirements applicable to managed care programs under chapters 256B, 256D, and 256L, established after the effective date of a contract with the commissioner take effect when the contract is next issued or renewed.

(c) Effective for services rendered on or after January 1, 2003, the commissioner shall withhold five percent of managed care plan payments under this section for the prepaid medical assistance and general assistance medical care programs pending completion of performance targets. Each performance target must be quantifiable, objective, measurable, and reasonably attainable, except in the case of a performance target based on a federal or state law or rule. Criteria for assessment of each performance target must be outlined in writing prior to the contract effective date. The managed care plan must demonstrate, to the commissioner's satisfaction, that the data submitted regarding attainment of the performance target is accurate. The commissioner shall periodically change the administrative measures used as performance targets in order to improve plan performance across a broader range of administrative services. The performance targets must include measurement of plan efforts to contain spending on health care services and administrative activities. The commissioner may adopt plan-specific performance targets that take into account factors affecting only one plan, including characteristics of the plan's enrollee population. The withheld funds must be returned no sooner than July of the following year if performance targets in the contract are achieved. The commissioner may exclude special demonstration projects under subdivision 23. A managed care plan or a county-based purchasing plan under section 256B.692 may include as admitted assets under section 62D.044 any amount withheld under this paragraph that is reasonably expected to be

returned.

(d)(1) Effective for services rendered on or after January 1, 2009, the commissioner shall withhold three percent of managed care plan payments under this section for the prepaid medical assistance and general assistance medical care programs. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following year. The commissioner may exclude special demonstration projects under subdivision 23.

(2) A managed care plan or a county-based purchasing plan under section 256B.692 may include as admitted assets under section 62D.044 any amount withheld under this paragraph. The return of the withhold under this paragraph is not subject to the requirements of paragraph (c).

(e) Effective for services provided on or after January 1, 2010, the commissioner shall require that managed care plans use the assessment and authorization processes, forms, timelines, standards, documentation, and data reporting requirements, protocols, billing processes, and policies consistent with medical assistance fee-for-service or the Department of Human Services contract requirements consistent with medical assistance fee-for-service or the Department of Human Services contract requirements for all personal care assistance services under section 256B.0659.

Sec. 73. 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. 74. Minnesota Statutes 2008, section 626.556, subdivision 3c, is amended to read:

**Subd. 3c. Local welfare agency, Department of Human Services or Department of Health responsible for assessing or investigating reports of maltreatment.** (a) The county local welfare agency is the agency responsible for assessing or investigating allegations of maltreatment in child foster care, family child care, and legally unlicensed child care and in juvenile correctional facilities licensed under section 241.021 located in the local welfare agency's county, and unlicensed personal care assistance provider organizations providing services and receiving reimbursements under chapter 256B.

(b) The Department of Human Services is the agency responsible for assessing or investigating allegations of maltreatment in facilities licensed under chapters 245A and 245B, except for child foster care and family child care.

(c) The Department of Health is the agency responsible for assessing or investigating allegations of child maltreatment in facilities licensed under sections 144.50 to 144.58, ~~and in unlicensed home health care and 144A.46.~~

(d) The commissioners of human services, public safety, and education must jointly submit a written report by January 15, 2007, to the education policy and finance committees of the legislature recommending the most efficient and effective allocation of agency responsibility for assessing or investigating reports of maltreatment and must specifically address allegations of maltreatment that currently are not the responsibility of a designated agency.

Sec. 75. Minnesota Statutes 2008, section 626.5572, subdivision 13, is amended to read:

Subd. 13. **Lead agency.** "Lead agency" is the primary administrative agency responsible for investigating reports made under section 626.557.

(a) The Department of Health is the lead agency for the facilities which are licensed or are required to be licensed as hospitals, home care providers, nursing homes, residential care homes, or boarding care homes.

(b) The Department of Human Services is the lead agency for the programs licensed or required to be licensed as adult day care, adult foster care, programs for people with developmental disabilities, mental health programs, or chemical health programs, or personal care provider organizations.

(c) The county social service agency or its designee is the lead agency for all other reports, including reports involving vulnerable adults receiving services from an unlicensed personal care provider organization under section 256B.0659.

**Sec. 76. DEVELOPMENT OF ALTERNATIVE SERVICES.**

The commissioner of human services, in consultation with advocates, consumers, and legislators, shall develop alternative services to personal care assistance services for persons with mental health and other behavioral challenges who can benefit from other services that more appropriately meet their needs and assist them in living independently in the community. In the development of these services, the commissioner shall:

(1) take into consideration ways in which these alternative services will qualify for federal financial participation; and

(2) analyze a variety of alternatives, including but not limited to a 1915(i) state plan option.

The commissioner shall report to the legislature by January 15, 2011, with plans for implementation of these services by July 1, 2011.

**Sec. 77. 30-DAY NOTICE REQUIRED.**

Notwithstanding any contrary provision in law, persons impacted by amendments in this article to Minnesota Statutes, sections 256B.0625, subdivision 19c; 256B.0655, subdivision 4; 256B.0659; and 256B.0911, subdivision 1, must be given a 30-day notice of action by the commissioner. This section expires July 1, 2011.

**Sec. 78. COLA COMPENSATION REQUIREMENTS.**

Effective July 1, 2009, providers who received rate increases under Laws 2007, chapter 147, article 7, section 71, as amended by Laws 2008, chapter 363, article 15, section 17, and Minnesota Statutes, section 256B.5012, subdivision 7, for state fiscal years 2008 and 2009 are no longer required to continue or retain employee compensation or wage-related increases required by those sections. This paragraph shall not apply to employees covered by a collective bargaining agreement.

**Sec. 79. PROVIDER RATE AND GRANT REDUCTIONS.**

(a) The commissioner of human services shall decrease grants, allocations, reimbursement rates, or rate limits, as applicable, by 2.58 percent effective July 1, 2009, for services rendered on or after that date. County or tribal contracts for services specified in this section must be amended to pass through these rate reductions within 60 days of the effective date of the decrease and must be retroactive from the effective date of the rate decrease.

(b) The annual rate decreases described in this section must be provided to:

(1) home and community-based waived services for persons with developmental disabilities or related conditions, including consumer-directed community supports, under Minnesota Statutes, section 256B.501;

(2) home and community-based waived services for the elderly, including consumer-directed community supports, under Minnesota Statutes, section 256B.0915;

(3) waived services under community alternatives for disabled individuals, including consumer-directed community supports, under Minnesota Statutes, section 256B.49;

(4) community alternative care waived services, including consumer-directed community supports, under Minnesota Statutes, section 256B.49;

(5) traumatic brain injury waived services, including consumer-directed community supports, under Minnesota Statutes, section 256B.49;

(6) nursing services and home health services under Minnesota Statutes, section 256B.0625, subdivision 6a;

(7) personal care services and qualified professional supervision of personal care services under Minnesota Statutes, section 256B.0625, subdivisions 6a and 19a;

(8) private duty nursing services under Minnesota Statutes, section 256B.0625, subdivision 7;

(9) day training and habilitation services for adults with developmental disabilities or related conditions under Minnesota Statutes, sections 252.40 to 252.46, including the additional cost of rate adjustments on day training and habilitation services, provided as a social service under Minnesota Statutes, section 256M.60;

(10) alternative care services under Minnesota Statutes, section 256B.0913;

(11) the group residential housing supplementary service rate under Minnesota Statutes, section 256I.05, subdivision 1a;

(12) semi-independent living services (SILS) under Minnesota Statutes, section 252.275, including SILS funding under county social services grants formerly funded under Minnesota Statutes, chapter 256I;

(13) community support services for deaf and hard-of-hearing adults with mental illness who use or wish to use sign language as their primary means of communication under Minnesota Statutes, section 256.01, subdivision 2; and deaf and hard-of-hearing grants under Minnesota Statutes, sections 256C.233 and 256C.25; Laws 1985, chapter 9; and Laws 1997, First Special Session chapter 5, section 20;

(14) physical therapy services under Minnesota Statutes, sections 256B.0625, subdivision 8, and 256D.03, subdivision 4;

(15) occupational therapy services under Minnesota Statutes, sections 256B.0625, subdivision 8a, and 256D.03, subdivision 4;

(16) speech-language therapy services under Minnesota Statutes, section 256D.03, subdivision



4, and Minnesota Rules, part 9505.0390;

(17) respiratory therapy services under Minnesota Statutes, section 256D.03, subdivision 4, and Minnesota Rules, part 9505.0295;

(18) consumer support grants under Minnesota Statutes, section 256.476;

(19) family support grants under Minnesota Statutes, section 252.32;

(20) aging grants under Minnesota Statutes, sections 256.975 to 256.977, 256B.0917, and 256B.0928;

(21) disability linkage line grants under Minnesota Statutes, section 256.01, subdivision 24; and

(22) housing access grants under Minnesota Statutes, section 256B.0658.

(c) A managed care plan receiving state payments for the services in this section must include these decreases in their payments to providers effective on October 1 following the effective date of the rate decrease.

**Sec. 80. RECOMMENDATIONS FOR PERSONAL CARE ASSISTANCE SERVICES CHANGES, CONSULTATION WITH STAKEHOLDERS, AND DATA REPORTING.**

The commissioner shall:

(1) consult with existing stakeholder groups convened under the commissioner's authority, including the home and community-based expert services panel beginning in August 2009 on implementation of the changes in the personal care assistance program, assistance for recipients whose services and housing must change, alternative services for those whose personal care assistance services are terminated or reduced, costs for those whose services will change, data on the effects of the changes in the personal care assistance program for recipients, and ongoing data on personal care assistance services for public reporting; and

(2) report data on the training developed and delivered for all types of participants in the personal care assistance program, audit and financial integrity measures and results, information developed for consumers and responsible parties, available demographic, health care service use, and housing information about individuals who no longer qualify for personal care assistance, and quality assurance measures and results to the legislative committees with jurisdiction over health and human services policy and finance by January 15, 2010, and January 15, 2011.

**Sec. 81. 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. 82. 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. 83. 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. 84. 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) whether a public equity housing fund should be established that would maintain the state's interest, to the extent paid from state funds, including 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;

(4) the desirability of the state acquiring an ownership interest or promoting the use of publicly owned housing;

(5) promoting more choices in the market for accessible housing that meets the needs of persons with physical challenges; and

(6) 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. This report shall replace the November 1, 2010, annual report by the commissioner required in Minnesota Statutes, sections 256B.0916, subdivision 7, and 256B.49, subdivision 21.

**Sec. 85. REVISOR'S INSTRUCTION.**

**Subdivision 1. Renumbering of Minnesota Statutes, section 256B.0652, authorization and review of home care services.** (a) The revisor of statutes shall renumber each section of Minnesota Statutes listed in column A with the number in column B.

<u>Column A</u>	<u>Column B</u>
<u>256B.0652, subdivision 3</u>	<u>256B.0652, subdivision 14</u>
<u>256B.0651, subdivision 6, paragraph (a)</u>	<u>256B.0652, subdivision 3</u>
<u>256B.0651, subdivision 6, paragraph (b)</u>	<u>256B.0652, subdivision 4</u>
<u>256B.0651, subdivision 6, paragraph (c)</u>	<u>256B.0652, subdivision 7</u>
<u>256B.0651, subdivision 7, paragraph (a)</u>	<u>256B.0652, subdivision 8</u>
<u>256B.0651, subdivision 7, paragraph (b)</u>	<u>256B.0652, subdivision 14</u>
<u>256B.0651, subdivision 8</u>	<u>256B.0652, subdivision 9</u>
<u>256B.0651, subdivision 9</u>	<u>256B.0652, subdivision 10</u>
<u>256B.0651, subdivision 11</u>	<u>256B.0652, subdivision 11</u>
<u>256B.0654, subdivision 2</u>	<u>256B.0652, subdivision 5</u>
<u>256B.0655, subdivision 4</u>	<u>256B.0652, subdivision 6</u>

(b) The revisor of statutes shall make necessary cross-reference changes in statutes and rules consistent with the renumbering in paragraph (a). The Department of Human Services shall assist the revisor with any cross-reference changes. The revisor may make changes necessary to correct the punctuation, grammar, or structure of the remaining text to conform with the intent of the renumbering in paragraph (a).

Subd. 2. **Renumbering personal care assistance services.** The revisor of statutes shall replace any reference to Minnesota Statutes, section 256B.0655 with section 256B.0659, wherever it appears in statutes or rules. The revisor shall correct any cross reference changes that are necessary as a result of this section. The Department of Human Services shall assist the revisor in making these changes, and if necessary, shall draft a corrections bill with changes for introduction in the 2010 legislative session. The revisor may make changes to punctuation, grammar, or sentence structure to preserve the integrity of statutes and effectuate the intention of this section.

**Sec. 86. REPEALER.**

(a) Minnesota Statutes 2008, sections 256B.0655, subdivisions 1, 1a, 1c, 1d, 1e, 1h, 1i, 3, 5, 6, 7, 8, 9, 10, 11, 12, and 13; and 256B.071, subdivisions 1, 2, 3, and 4, are repealed.

(b) Minnesota Statutes 2008, sections 256B.19, subdivision 1d; and 256B.431, subdivision 23, are repealed effective May 1, 2009.

(c) Minnesota Statutes 2008, section 256B.0655, subdivisions 1f, 1g, and 2, are repealed effective January 1, 2010.

**ARTICLE 9**

**STATE-COUNTY RESULTS, ACCOUNTABILITY, AND SERVICE DELIVERY  
REFORM ACT**

**Section 1. [402A.01] CITATION.**

Sections 402A.01 to 402A.50 may be cited as the "State-County Results, Accountability, and Service Delivery Reform Act."

**Sec. 2. [402A.10] DEFINITIONS.**

Subdivision 1. **Terms defined.** For the purposes of this chapter, the terms defined in this section have the meanings given.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of human services.

Subd. 3. **Council.** "Council" means the State-County Results, Accountability, and Service Delivery Redesign Council established in section 402A.20.

Subd. 4. **Essential human services or essential services.** "Essential human services" or "essential services" means assistance and services to recipients or potential recipients of public welfare and other services delivered by counties that are mandated in federal and state law that are to be available in all counties of the state.

Subd. 5. **Service delivery authority.** "Service delivery authority" means a single county, or group of counties operating by execution of a joint powers agreement under section 471.59 or other contractual agreement, that has voluntarily chosen by resolution of the county board of commissioners to participate in the redesign under this chapter.

Subd. 6. **Steering committee.** "Steering committee" means the Steering Committee on Performance and Outcome Reforms.

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

**Sec. 3. [402A.15] STEERING COMMITTEE ON PERFORMANCE AND OUTCOME REFORMS.**

Subdivision 1. **Duties.** (a) The Steering Committee on Performance and Outcome Reforms shall develop a uniform process to establish and review performance and outcome standards for all essential human services based on the current level of resources available, and to develop appropriate reporting measures and a uniform accountability process for responding to a county's or human service authority's failure to make adequate progress on achieving performance measures. The accountability process shall focus on the performance measures rather than inflexible implementation requirements.

(b) The steering committee shall:

(1) by November 1, 2009, establish an agreed upon list of essential services;

(2) by February 15, 2010, develop and recommend to the legislature a uniform, graduated process, in addition to the remedies identified in section 402A.18, for responding to a county's failure to make adequate progress on achieving performance measures; and

(3) by December 15, 2012, for each essential service make recommendations to the legislature regarding (1) performance measures and goals based on those measures for each essential service, (2) a system for reporting on the performance measures and goals, and (3) appropriate resources, including funding, needed to achieve those performance measures and goals. The resource recommendations shall take into consideration program demand and the unique differences of local areas in geography and the populations served. Priority shall be given to services with the greatest variation in availability and greatest administrative demands. By January 15 of each year starting January 15, 2011, the steering committee shall report its recommendations to the governor and legislative committees with jurisdiction over health and human services. As part of its report, the steering committee shall, as appropriate, recommend statutory provisions, rules and requirements, and reports that should be repealed or eliminated.

(c) As far as possible, the performance measures, reporting system, and funding shall be consistent across program areas. The development of performance measures shall consider the manner in which data will be collected and performance will be reported. The steering committee shall consider state and local administrative costs related to collecting data and reporting outcomes when developing performance measures. The steering committee shall correlate the performance measures and goals to available levels of resources, including state and local funding. The steering committee shall take into consideration that the goal of implementing changes to program monitoring and reporting the progress toward achieving outcomes is to significantly minimize the cost of administrative requirements and to allow funds freed by reduced administrative expenditures to be used to provide additional services, allow flexibility in service design and management, and focus energies on achieving program and client outcomes.

(d) In making its recommendations, the steering committee shall consider input from the council established in section 402A.20. The steering committee shall review the measurable goals established in a memorandum of understanding entered into under section 402A.30, subdivision 2, paragraph (b), and consider whether they may be applied as statewide performance outcomes.

(e) The steering committee shall form work groups that include persons who provide or receive essential services and representatives of organizations who advocate on behalf of those persons.

(f) By December 15, 2009, the steering committee shall establish a three-year schedule for completion of its work. The schedule shall be published on the Department of Human Services Web site and reported to the legislative committees with jurisdiction over health and human services. In addition, the commissioner shall post quarterly updates on the progress of the steering committee on the Department of Human Services Web site.

Subd. 2. **Composition.** (a) The steering committee shall include:

(1) the commissioner of human services, or designee, and two additional representatives of the department;

(2) two county commissioners, representative of rural and urban counties, selected by the Association of Minnesota Counties;

(3) two county directors of human services, representative of rural and urban counties, selected by the Minnesota Association of County Social Service Administrators; and

(4) three clients or client advocates representing different populations receiving services from the Department of Human Services, who are appointed by the commissioner.

(b) The commissioner, or designee, and a county commissioner shall serve as cochairs of the committee. The committee shall be convened within 60 days of final enactment of this legislation.

(c) State agency staff shall serve as informational resources and staff to the steering committee. Statewide county associations may assemble county program data as required.

(d) To promote information sharing and coordination between the steering committee and council, one of the county representatives from paragraph (a), clause (2), and one of the county representatives from paragraph (a), clause (3), must also serve as a representative on the council under section 402A.20, subdivision 1, paragraph (b), clause (5) or (6).

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

Sec. 4. **[402A.18] COMMISSIONER POWER TO REMEDY FAILURE TO MEET PERFORMANCE OUTCOMES.**

Subdivision 1. **Underperforming county; specific service.** If the commissioner determines that a county or service delivery authority is deficient in achieving minimum performance outcomes for a specific essential service, the commissioner may impose the following remedies:

(1) voluntary incorporation of the administration and operation of the specific essential service with an existing service delivery authority or another county. A service delivery authority or county incorporating an underperforming county shall not be financially liable for the costs associated with remedying performance outcome deficiencies;

(2) mandatory incorporation of the administration and operation of the specific essential service with an existing service delivery authority or another county. A service delivery authority or county incorporating an underperforming county shall not be financially liable for the costs associated with remedying performance outcome deficiencies; or

(3) transfer of authority for program administration and operation of the specific essential service to the commissioner.

Subd. 2. **Underperforming county; more than one-half of service.** If the commissioner determines that a county or service delivery authority is deficient in achieving minimum performance outcomes for more than one-half of the defined essential service, the commissioner may impose the following remedies:

(1) voluntary incorporation of the administration and operation of the specific essential service with an existing service delivery authority or another county. A service delivery authority or county incorporating an underperforming county shall not be financially liable for the costs associated with remedying performance outcome deficiencies;

(2) mandatory incorporation of the administration and operation of the specific essential service with an existing service delivery authority or another county. A service delivery authority or county incorporating an underperforming county shall not be financially liable for the costs associated with remedying performance outcome deficiencies; or

(3) transfer of authority for program administration and operation of the specific essential service to the commissioner.

Subd. 3. **Conditions prior to imposing remedies.** Before the commissioner may impose the remedies authorized under this section, the following conditions must be met:

(1) the county or service delivery authority determined by the commissioner to be deficient in achieving minimum performance outcomes has the opportunity, in coordination with the council, to develop a program outcome improvement plan. The program outcome improvement plan must be developed no later than six months from the date of the deficiency determination; and

(2) the council has conducted an assessment of the program outcome improvement plan to determine if the county or service delivery authority has made satisfactory progress toward performance outcomes and has made a recommendation about remedies to the commissioner. The review and recommendation must be made to the commissioner within 12 months from the date of the deficiency determination.

#### Sec. 5. [402A.20] COUNCIL.

Subdivision 1. **Council.** (a) The State-County Results, Accountability, and Service Delivery Redesign Council is established. Appointed council members must be appointed by their respective agencies, associations, or governmental units by November 1, 2009. The council shall be cochaired by the commissioner of human services, or designee, and a county representative from paragraph (b), clause (4) or (5), appointed by the Association of Minnesota Counties. Recommendations of the council must be approved by a majority of the council members. The provisions of section 15.059 do not apply to this council, and this council does not expire.

(b) The council must consist of the following members:

(1) two legislators appointed by the speaker of the house, one from the minority and one from the majority;

(2) two legislators appointed by the Senate Rules Committee, one from the majority and one from the minority;

(3) the commissioner of human services, or designee, and three employees from the department;

(4) two county commissioners appointed by the Association of Minnesota Counties;

(5) two county representatives appointed by the Minnesota Association of County Social Service Administrators;

(6) one representative appointed by AFSCME as a nonvoting member; and

(7) one representative appointed by the Teamsters as a nonvoting member.

(c) Administrative support to the council may be provided by the Association of Minnesota Counties and affiliates.

(d) Member agencies and associations are responsible for initial and subsequent appointments to the council.

Subd. 2. **Council duties.** The council shall:

(1) provide review of the redesign process;

(2) certify, in accordance with section 402A.30, subdivision 4, the formation of a service delivery authority, including the memorandum of understanding in section 402A.30, subdivision 2, paragraph (b);

(3) ensure the consistency of the memoranda of understanding entered into under section 402A.30, subdivision 2, paragraph (b), with the performance standards recommended by the steering committee and enacted by the legislature;

(4) ensure the consistency of the memoranda of understanding, to the extent appropriate, or other memoranda of understanding entered into by other service delivery authorities;

(5) establish a process to take public input on the service delivery framework specified in the memorandum of understanding in section 402A.30, subdivision 2, paragraph (b);

(6) form work groups as necessary to carry out the duties of the council under the redesign;

(7) serve as a forum for resolving conflicts among participating counties or between participating counties and the commissioner of human services, provided nothing in this section is intended to create a formal binding legal process;

(8) engage in the program improvement process established in section 402A.18, subdivision 3; and

(9) identify and recommend incentives for counties to participate in human services authorities.

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

Sec. 6. **[402A.30] DESIGNATION OF SERVICE DELIVERY AUTHORITY.**

Subdivision 1. **Establishment.** After certification by the council and approval by the commissioner, in accordance with subdivision 4, a county or consortium of counties may establish a service delivery authority to redesign the delivery of some or all essential services. Once a county or consortium of counties establishes a service delivery authority, no county that is a participant in the service delivery authority may participate in or be a member of any other service delivery authority. The service delivery authority may allow an additional county or counties to join the



service delivery authority subject to the approval of the council and the commissioner.

Subd. 2. **New state-county governance framework.** (a) To establish a service delivery authority, each participating county and the state must enter into a binding memorandum of understanding to establish a joint state-county service delivery framework:

(b) The memorandum of understanding must:

(1) comply with current state and federal law except where waivers are approved under clause (7);

(2) define the scope of essential services over which the service delivery authority has jurisdiction;

(3) designate a single administrative structure to oversee the delivery of services over which the service delivery authority has jurisdiction and identify a single administrative agent for purposes of contact and communication with the department;

(4) define measurable performance and outcome goals in key operational areas that the service delivery authority is expected to achieve, provided that the performance goals must, at a minimum, satisfy performance outcomes recommended by the steering committee and enacted into law;

(5) identify the state and local resources, including funding and administrative and information technology support, and other requirements necessary for the service delivery authority to achieve the performance and outcome goals;

(6) state the relief available to the service delivery authority if the resource commitments identified in clause (5) are not met;

(7) identify in the agreement the waivers from statutory requirements that are needed to ensure greater local control and flexibility to determine the most cost-effective means of achieving specified measurable goals and the date by which the commissioner shall grant the identified waivers;

(8) set forth a graduated accountability process and penalties for responding to a county's failure to make adequate progress on achieving performance and outcome goals;

(9) set forth a reasonable level of targeted reductions in overhead and administrative costs for each county participating in the service delivery authority; and

(10) set forth the terms under which a county may withdraw from participation.

The memorandum of understanding may be later amended to add additional services over which the service delivery authority has jurisdiction.

(c) Nothing in this chapter precludes local governments from utilizing sections 465.81 and 465.82 to establish procedures for local governments to merge, with the consent of the voters. Any agreement under paragraph (b) must be governed by this chapter. Nothing in this chapter limits the authority of a county board to enter into contractual agreements for services not covered by the provisions of a memorandum of understanding establishing a service delivery authority with other agencies or with other units of government.

Subd. 3. **Duties.** The service delivery authority shall:

(1) within the scope of essential services set forth in the memorandum of understanding establishing the authority, carry out the responsibilities required of local agencies under chapter 393 and human services boards under chapter 402;

(2) manage the public resources devoted to human services and other public services delivered or purchased by the counties that are subsidized or regulated by the Department of Human Services under chapters 245 and 267;

(3) employ staff to assist in carrying out its duties;

(4) develop and maintain a continuity of operations plan to ensure the continued operation or resumption of essential human services functions in the event of any business interruption according to local, state, and federal emergency planning requirements;

(5) receive and expend funds received for the redesign process under the memorandum of understanding;

(6) plan and deliver services directly or through contract with other governmental or nongovernmental providers;

(7) rent, purchase, sell, and otherwise dispose of real and personal property as necessary to carry out the redesign; and

(8) carry out any other service designated as a responsibility of a county.

Subd. 4. **Process for establishing a service delivery authority.** (a) The county or consortium of counties proposing to form a service delivery authority shall, in conjunction with the commissioner, prevent a proposed memorandum of understanding to the council accompanied by a resolution from the board of commissioners of each participating county stating the county's intent to participate in a service delivery authority.

(b) The council shall certify a county or consortium of counties as a service delivery authority if:

(1) the conditions in subdivision 2, paragraphs (a) and (b), are met; and

(2) the county or consortium of counties are:

(i) a single county with a population of 55,000 or more;

(ii) a consortium of counties with a total combined population of 55,000 or more and the counties comprising the consortium are in reasonable geographic proximity; or

(iii) four or more counties in reasonable geographic proximity without regard to population.

The council may recommend that the commissioner of human services exempt a single county or multicounty service delivery authority from the minimum population standard if that service delivery authority can demonstrate that it can otherwise meet the requirements of this chapter.

(c) After the council has certified a county or consortium of counties as a service delivery authority, the commissioner may enter into the memoranda of understanding with the participating counties to form the service delivery authority.

Subd. 5. **Single county service delivery authority.** For counties with populations over 55,000,

the board of county commissioners may be the service delivery authority and retain existing authority under law.

**Sec. 7. [402A.45] ESSENTIAL SERVICES OUTSIDE THE JURISDICTION OF A SERVICE DELIVERY AUTHORITY.**

(a) With the approval of the council, a county that is a participant in a service delivery authority may enter into cooperative arrangements with other service delivery authorities or other counties to provide essential services that are not within the jurisdiction and duties of the service delivery authority.

(b) With the approval of the council, a service delivery authority may enter into a cooperative arrangement with a nonparticipating county to provide an essential service within the jurisdiction and duties of the service delivery authority.

**Sec. 8. [402A.50] PRIVATE SECTOR FUNDING.**

The council may support stakeholder agencies, if not otherwise prohibited by law, to separately or jointly seek and receive funds to provide expert technical assistance to the council, the council's work group, and any subwork groups for executing the provisions of the redesign.

**Sec. 9. APPROPRIATION.**

\$350,000 is appropriated for the biennium beginning July 1, 2009, from the general fund to the State-County Results, Accountability, and Service Delivery Redesign Council, for the purposes of the State-County Results, Accountability, and Service Delivery Reform Act under Minnesota Statutes, sections 402A.01 to 402A.50. The council shall establish a methodology for distributing funds to certified service delivery authorities for the purposes of carrying out the requirements of the redesign.

## **ARTICLE 10**

### **PUBLIC HEALTH**

Section 1. Minnesota Statutes 2008, section 103I.208, subdivision 2, is amended to read:

Subd. 2. **Permit fee.** The permit fee to be paid by a property owner is:

- (1) for a water supply well that is not in use under a maintenance permit, \$175 annually;
- (2) for construction of a monitoring well, \$215, which includes the state core function fee;
- (3) for a monitoring well that is unsealed under a maintenance permit, \$175 annually;

(4) for a monitoring well owned by a federal agency, state agency, or local unit of government that is unsealed under a maintenance permit, \$50 annually. "Local unit of government" means a statutory or home rule charter city, town, county, or soil and water conservation district, watershed district, an organization formed for the joint exercise of powers under section 471.59, a board of health or community health board, or other special purpose district or authority with local jurisdiction in water and related land resources management;

(5) for monitoring wells used as a leak detection device at a single motor fuel retail outlet, a single petroleum bulk storage site excluding tank farms, or a single agricultural chemical facility site, the

construction permit fee is \$215, which includes the state core function fee, per site regardless of the number of wells constructed on the site, and the annual fee for a maintenance permit for unsealed monitoring wells is \$175 per site regardless of the number of monitoring wells located on site;

~~(5)~~ (6) for a groundwater thermal exchange device, in addition to the notification fee for water supply wells, \$215, which includes the state core function fee;

~~(6)~~ (7) for a vertical heat exchanger with less than ten tons of heating/cooling capacity, \$215;

(8) for a vertical heat exchanger with ten to 50 tons of heating/cooling capacity, \$425;

(9) for a vertical heat exchanger with greater than 50 tons of heating/cooling capacity, \$650;

~~(7)~~ (10) for a dewatering well that is unsealed under a maintenance permit, \$175 annually for each dewatering well, except a dewatering project comprising more than five dewatering wells shall be issued a single permit for \$875 annually for dewatering wells recorded on the permit; and

~~(8)~~ (11) for an elevator boring, \$215 for each boring.

Sec. 2. Minnesota Statutes 2008, section 144.121, subdivision 1a, is amended to read:

Subd. 1a. **Fees for ionizing radiation-producing equipment.** (a) A facility with ionizing radiation-producing equipment must pay an annual initial or annual renewal registration fee consisting of a base facility fee of ~~\$66~~ \$100 and an additional fee for each radiation source, as follows:

(1) medical or veterinary equipment	\$ <del>53</del> <u>100</u>
(2) dental x-ray equipment	\$ <del>33</del> <u>40</u>
<del>(3) accelerator</del>	\$ <del>66</del>
<del>(4) radiation therapy equipment</del>	\$ <del>66</del>
<del>(5)</del> (3) x-ray equipment not used on humans or animals	\$ <del>53</del> <u>100</u>
<del>(6)</del> (4) devices with sources of ionizing radiation not used on humans or animals	\$ <del>53</del> <u>100</u>

(b) A facility with radiation therapy and accelerator equipment must pay an annual registration fee of \$500. A facility with an industrial accelerator must pay an annual registration fee of \$150.

(c) Electron microscopy equipment is exempt from the registration fee requirements of this section.

Sec. 3. Minnesota Statutes 2008, section 144.121, subdivision 1b, is amended to read:

Subd. 1b. **Penalty fee for late registration.** Applications for initial or renewal registrations submitted to the commissioner after the time specified by the commissioner shall be accompanied by a ~~penalty fee of \$20~~ an amount equal to 25 percent of the fee due in addition to the fees prescribed in subdivision 1a.

Sec. 4. Minnesota Statutes 2008, section 144.1222, subdivision 1a, is amended to read:

Subd. 1a. **Fees.** All plans and specifications for public pool and spa construction, installation, or alteration or requests for a variance that are submitted to the commissioner according to Minnesota Rules, part 4717.3975, shall be accompanied by the appropriate fees. All public pool construction plans submitted for review after January 1, 2009, must be certified by a professional engineer registered in the state of Minnesota. If the commissioner determines, upon review of the plans, that inadequate fees were paid, the necessary additional fees shall be paid before plan approval. For purposes of determining fees, a project is defined as a proposal to construct or install a public pool, spa, special purpose pool, or wading pool and all associated water treatment equipment and drains, gutters, decks, water recreation features, spray pads, and those design and safety features that are within five feet of any pool or spa. The commissioner shall charge the following fees for plan review and inspection of public pools and spas and for requests for variance from the public pool and spa rules:

- (1) each pool, ~~\$800~~ \$1,500;
- (2) each spa pool, ~~\$500~~ \$800;
- (3) each slide, ~~\$400~~ \$600;
- (4) projects valued at \$250,000 or more, the greater of the sum of the fees in clauses (1), (2), and (3) or 0.5 percent of the documented estimated project cost to a maximum fee of ~~\$10,000~~ \$15,000;
- (5) alterations to an existing pool without changing the size or configuration of the pool, ~~\$400~~ \$600;
- (6) removal or replacement of pool disinfection equipment only, ~~\$75~~ \$100; and
- (7) request for variance from the public pool and spa rules, \$500.

Sec. 5. Minnesota Statutes 2008, section 144.125, subdivision 1, is amended to read:

Subdivision 1. **Duty to perform testing.** It is the duty of (1) the administrative officer or other person in charge of each institution caring for infants 28 days or less of age, (2) the person required in pursuance of the provisions of section 144.215, to register the birth of a child, or (3) the nurse midwife or midwife in attendance at the birth, to arrange to have administered to every infant or child in its care tests for heritable and congenital disorders according to subdivision 2 and rules prescribed by the state commissioner of health. Testing and the recording and reporting of test results shall be performed at the times and in the manner prescribed by the commissioner of health. The commissioner shall charge a fee so that the total of fees collected will approximate the costs of conducting the tests and implementing and maintaining a system to follow-up infants with heritable or congenital disorders, including hearing loss detected through the early hearing detection and intervention program under section 144.966. The fee is \$101 per specimen. Effective July 1, 2010, the fee shall be increased to \$106 per specimen. The increased fee amount shall be deposited in the general fund. Costs associated with capital expenditures and the development of new procedures may be prorated over a three-year period when calculating the amount of the fees.

**EFFECTIVE DATE.** This section is effective July 1, 2010.

Sec. 6. Minnesota Statutes 2008, section 144.72, subdivision 1, is amended to read:

Subdivision 1. ~~Permits~~ **License required.** The state commissioner of health is authorized to

issue ~~permits for the operation of youth camps which are required to obtain the permits~~ a license according to chapter 157.

Sec. 7. Minnesota Statutes 2008, section 144.72, subdivision 3, is amended to read:

Subd. 3. **Issuance of ~~permits~~ license.** If the commissioner should determine from the application that the health and safety of the persons using the camp will be properly safeguarded, the commissioner may, prior to actual inspection of the camp, issue the ~~permit~~ license in writing. ~~No fee shall be charged for the permit.~~ The ~~permit~~ license shall be posted in a conspicuous place on the premises occupied by the camp.

Sec. 8. Minnesota Statutes 2008, section 144.9501, is amended by adding a subdivision to read:

Subd. 8a. **Disclosure pamphlet.** "Disclosure pamphlet" means the EPA pamphlet titled "Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools" developed under section 406(a) of the Toxic Substance Control Act.

Sec. 9. Minnesota Statutes 2008, section 144.9501, subdivision 22b, is amended to read:

Subd. 22b. **Lead sampling technician.** "Lead sampling technician" means an individual who performs clearance inspections for ~~nonabatement or nonorder lead hazard reduction~~ renovation sites, and lead dust sampling in other settings, or visual assessment for deteriorated paint for nonabatement sites, and who is registered with the commissioner under section 144.9505.

Sec. 10. Minnesota Statutes 2008, section 144.9501, subdivision 26a, is amended to read:

Subd. 26a. **Regulated lead work.** (a) "Regulated lead work" means:

- (1) abatement;
- (2) interim controls;
- (3) a clearance inspection;
- (4) a lead hazard screen;
- (5) a lead inspection;
- (6) a lead risk assessment;
- (7) lead project designer services;
- (8) lead sampling technician services; ~~or~~
- (9) swab team services;
- (10) renovation activities; or
- (11) activities performed to comply with lead orders issued by a board of health.

(b) Regulated lead work does not include abatement, interim controls, swab team services, or renovation activities that disturb painted surfaces that total no more than:

~~(1) activities such as remodeling, renovation, installation, rehabilitation, or landscaping activities, the primary intent of which is to remodel, repair, or restore a structure or dwelling, rather~~

~~than to permanently eliminate lead hazards, even though these activities may incidentally result in a reduction in lead hazards; or~~

~~(2) interim control activities that are not performed as a result of a lead order and that do not disturb painted surfaces that total more than:~~

~~(i) (1) 20 square feet (two square meters) on exterior surfaces; or~~

~~(ii) two (2) six square feet (0.2 0.6 square meters) in an interior room; or~~

~~(iii) ten percent of the total surface area on an interior or exterior type of component with a small surface area.~~

Sec. 11. Minnesota Statutes 2008, section 144.9501, is amended by adding a subdivision to read:

Subd. 26b. **Renovation.** "Renovation" means the modification of any affected property that results in the disturbance of painted surfaces, unless that activity is performed as an abatement. A renovation performed for the purpose of converting a building or part of a building into an affected property is a renovation under this subdivision.

Sec. 12. Minnesota Statutes 2008, section 144.9505, subdivision 1g, is amended to read:

Subd. 1g. **Certified lead firm.** A person within the state intending to directly perform or cause to be performed through subcontracting or similar delegation any regulated lead work shall first obtain certification from the commissioner. A person who employs individuals to perform regulated lead work outside of the person's property must obtain certification as a lead firm. The certificate must be in writing, contain an expiration date, be signed by the commissioner, and give the name and address of the person to whom it is issued. The certification fee is \$100, is nonrefundable, and must be submitted with each application. The certificate or a copy of the certificate must be readily available at the worksite for review by the contracting entity, the commissioner, and other public health officials charged with the health, safety, and welfare of the state's citizens.

Sec. 13. Minnesota Statutes 2008, section 144.9505, subdivision 4, is amended to read:

Subd. 4. **Notice of regulated lead work.** (a) At least five working days before starting work at each regulated lead worksite, the person performing the regulated lead work shall give written notice to the commissioner and the appropriate board of health.

(b) This provision does not apply to lead hazard screen, lead inspection, lead risk assessment, lead sampling technician, renovation, or lead project design activities.

Sec. 14. Minnesota Statutes 2008, section 144.9508, subdivision 2, is amended to read:

Subd. 2. **Regulated lead work standards and methods.** (a) The commissioner shall adopt rules establishing regulated lead work standards and methods in accordance with the provisions of this section, for lead in paint, dust, drinking water, and soil in a manner that protects public health and the environment for all residences, including residences also used for a commercial purpose, child care facilities, playgrounds, and schools.

(b) In the rules required by this section, the commissioner shall require lead hazard reduction of intact paint only if the commissioner finds that the intact paint is on a chewable or lead-dust producing surface that is a known source of actual lead exposure to a specific individual. The

commissioner shall prohibit methods that disperse lead dust into the air that could accumulate to a level that would exceed the lead dust standard specified under this section. The commissioner shall work cooperatively with the commissioner of administration to determine which lead hazard reduction methods adopted under this section may be used for lead-safe practices including prohibited practices, preparation, disposal, and cleanup. The commissioner shall work cooperatively with the commissioner of the Pollution Control Agency to develop disposal procedures. In adopting rules under this section, the commissioner shall require the best available technology for regulated lead work methods, paint stabilization, and repainting.

(c) The commissioner of health shall adopt regulated lead work standards and methods for lead in bare soil in a manner to protect public health and the environment. The commissioner shall adopt a maximum standard of 100 parts of lead per million in bare soil. The commissioner shall set a soil replacement standard not to exceed 25 parts of lead per million. Soil lead hazard reduction methods shall focus on erosion control and covering of bare soil.

(d) The commissioner shall adopt regulated lead work standards and methods for lead in dust in a manner to protect the public health and environment. Dust standards shall use a weight of lead per area measure and include dust on the floor, on the window sills, and on window wells. Lead hazard reduction methods for dust shall focus on dust removal and other practices which minimize the formation of lead dust from paint, soil, or other sources.

(e) The commissioner shall adopt lead hazard reduction standards and methods for lead in drinking water both at the tap and public water supply system or private well in a manner to protect the public health and the environment. The commissioner may adopt the rules for controlling lead in drinking water as contained in Code of Federal Regulations, title 40, part 141. Drinking water lead hazard reduction methods may include an educational approach of minimizing lead exposure from lead in drinking water.

(f) The commissioner of the Pollution Control Agency shall adopt rules to ensure that removal of exterior lead-based coatings from residences and steel structures by abrasive blasting methods is conducted in a manner that protects health and the environment.

(g) All regulated lead work standards shall provide reasonable margins of safety that are consistent with more than a summary review of scientific evidence and an emphasis on overprotection rather than underprotection when the scientific evidence is ambiguous.

(h) No unit of local government shall have an ordinance or regulation governing regulated lead work standards or methods for lead in paint, dust, drinking water, or soil that require a different regulated lead work standard or method than the standards or methods established under this section.

(i) Notwithstanding paragraph (h), the commissioner may approve the use by a unit of local government of an innovative lead hazard reduction method which is consistent in approach with methods established under this section.

(j) The commissioner shall adopt rules for issuing lead orders required under section 144.9504, rules for notification of abatement or interim control activities requirements, and other rules necessary to implement sections 144.9501 to 144.9512.

(k) The commissioner shall adopt rules consistent with section 402(c)(3) of the Toxic Substances Control Act to ensure that renovation in a pre-1978 affected property where a child or pregnant



female resides is conducted in a manner that protects health and the environment.

(l) The commissioner shall adopt rules consistent with sections 406(a) and 406(b) of the Toxic Substances Control Act.

Sec. 15. Minnesota Statutes 2008, section 144.9508, subdivision 3, is amended to read:

Subd. 3. **Licensure and certification.** The commissioner shall adopt rules to license lead supervisors, lead workers, lead project designers, lead inspectors, ~~and lead risk assessors, and lead sampling technicians.~~ The commissioner shall also adopt rules requiring certification of firms that perform regulated lead work ~~and rules requiring registration of lead sampling technicians.~~ The commissioner shall require periodic renewal of licenses, and certificates, and registrations and shall establish the renewal periods.

Sec. 16. Minnesota Statutes 2008, section 144.9508, subdivision 4, is amended to read:

Subd. 4. **Lead training course.** The commissioner shall establish by rule requirements for training course providers and the renewal period for each lead-related training course required for certification or licensure. The commissioner shall establish criteria in rules for the content and presentation of training courses intended to qualify trainees for licensure under subdivision 3. The commissioner shall establish criteria in rules for the content and presentation of training courses for lead ~~interim control workers~~ renovation and lead sampling technicians. Training course permit fees shall be nonrefundable and must be submitted with each application in the amount of \$500 for an initial training course, \$250 for renewal of a permit for an initial training course, \$250 for a refresher training course, and \$125 for renewal of a permit of a refresher training course.

Sec. 17. Minnesota Statutes 2008, section 144.9512, subdivision 2, is amended to read:

Subd. 2. **Grants; administration.** Within the limits of the available appropriation, the commissioner shall make grants to a nonprofit ~~organization currently operating the CLEAR Corps lead hazard reduction project~~ organizations to train workers to provide lead screening, education, outreach, and swab team services for residential property. Projects that provide Americorps funding or positions, or leverage matching funds, as part of the delivery of the services must be given priority for the grant funds.

Sec. 18. Minnesota Statutes 2008, section 144.966, is amended by adding a subdivision to read:

Subd. 3a. **Support services to families.** The commissioner shall contract with a nonprofit organization to provide support and assistance to families with children who are deaf or have a hearing loss. The family support provided must include direct parent-to-parent assistance and information on communication, educational, and medical options. The commissioner shall give preference to a nonprofit organization that has the ability to provide these services throughout the state.

Sec. 19. Minnesota Statutes 2008, section 144.97, subdivision 2, is amended to read:

Subd. 2. **Certification Accreditation.** "Certification" means written acknowledgment of a laboratory's demonstrated capability to perform tests for a specific purpose "Accreditation" means written acknowledgment that a laboratory has the policies, procedures, equipment, and practices to produce reliable data in the analysis of environmental samples.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 20. Minnesota Statutes 2008, section 144.97, subdivision 4, is amended to read:

Subd. 4. ~~Contract~~ **Commercial laboratory.** "~~Contract~~ Commercial laboratory" means a laboratory that performs tests on samples on a contract or fee-for-service basis.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 21. Minnesota Statutes 2008, section 144.97, is amended by adding a subdivision to read:

Subd. 5a. **Field of testing.** "Field of testing" means the combination of analyte, method, matrix, and test category for which a laboratory may hold accreditation.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 22. Minnesota Statutes 2008, section 144.97, subdivision 6, is amended to read:

Subd. 6. **Laboratory.** "Laboratory" means the state, a person, corporation, or other entity, including governmental, that examines, analyzes, or tests samples in a specified physical location.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 23. Minnesota Statutes 2008, section 144.97, is amended by adding a subdivision to read:

Subd. 8. **Test category.** "Test category" means the combination of program and category as provided by section 144.98, subdivisions 3, paragraph (b), clauses (1) to (10), and 3a, paragraph (a), clauses (1) to (5).

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 24. Minnesota Statutes 2008, section 144.98, subdivision 1, is amended to read:

Subdivision 1. **Authorization.** The commissioner of health may certify shall accredit environmental laboratories that test environmental samples according to national standards developed using a consensus process as established by Circular A-119, published by the United States Office of Management and Budget.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 25. Minnesota Statutes 2008, section 144.98, subdivision 2, is amended to read:

Subd. 2. **Rules and standards.** The commissioner may adopt rules to implement this section, including: carry out the commissioner's responsibilities under the national standards specified in subdivisions 1 and 2a.

~~(1) procedures, requirements, and fee adjustments for laboratory certification, including provisional status and recertification;~~

~~(2) standards and fees for certificate approval, suspension, and revocation;~~

~~(3) standards for environmental samples;~~

~~(4) analysis methods that assure reliable test results;~~

~~(5) laboratory quality assurance, including internal quality control, proficiency testing, and personnel training; and~~

~~(6) criteria for recognition of certification programs of other states and the federal government.~~

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 26. Minnesota Statutes 2008, section 144.98, is amended by adding a subdivision to read:

Subd. 2a. **Standards.** The commissioner shall accredit laboratories according to the most current environmental laboratory accreditation standards under subdivision 1 and as accepted by the accreditation bodies recognized by the National Environmental Laboratory Accreditation Program (NELAP) of the NELAC Institute.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 27. Minnesota Statutes 2008, section 144.98, subdivision 3, is amended to read:

Subd. 3. **Annual fees.** (a) An application for ~~certification~~ accreditation under subdivision ~~4~~ 6 must be accompanied by the ~~biennial fee~~ annual fees specified in this subdivision. ~~The fees are for annual fees include:~~

- (1) ~~base certification~~ accreditation fee, ~~\$1,600~~ \$1,500;
- (2) ~~sample preparation techniques fees~~ fee, ~~\$100~~ \$200 per technique; and
- (3) ~~an administrative fee for laboratories located outside this state, \$3,750; and~~
- (4) ~~test category certification fees.~~

Test Category	Certification Fee
<del>Clean water program bacteriology</del>	\$800
<del>Safe drinking water program bacteriology</del>	\$800
<del>Clean water program inorganic chemistry</del>	\$800
<del>Safe drinking water program inorganic chemistry</del>	\$800
<del>Clean water program chemistry metals</del>	\$1,200
<del>Safe drinking water program chemistry metals</del>	\$1,200
<del>Resource conservation and recovery program chemistry metals</del>	\$1,200
<del>Clean water program volatile organic compounds</del>	\$1,500
<del>Safe drinking water program volatile organic compounds</del>	\$1,500
<del>Resource conservation and recovery program volatile organic compounds</del>	\$1,500
<del>Underground storage tank program volatile organic compounds</del>	\$1,500
<del>Clean water program other organic compounds</del>	\$1,500
<del>Safe drinking water program other organic compounds</del>	\$1,500
<del>Resource conservation and recovery program other organic compounds</del>	\$1,500

Clean water program radiochemistry	\$2,500
Safe drinking water program radiochemistry	\$2,500
Resource conservation and recovery program agricultural contaminants	\$2,500
Resource conservation and recovery program emerging contaminants	\$2,500

~~(b) Laboratories located outside of this state that require an on-site inspection shall be assessed an additional \$3,750 fee.~~ For the programs in subdivision 3a, the commissioner may accredit laboratories for fields of testing under the categories listed in clauses (1) to (10) upon completion of the application requirements provided by subdivision 6 and receipt of the fees for each category under each program that accreditation is requested. The categories offered and related fees include:

- (1) microbiology, \$450;
- (2) inorganics, \$450;
- (3) metals, \$1,000;
- (4) volatile organics, \$1,300;
- (5) other organics, \$1,300;
- (6) radiochemistry, \$1,500;
- (7) emerging contaminants, \$1,500;
- (8) agricultural contaminants, \$1,250;
- (9) toxicity (bioassay), \$1,000; and
- (10) physical characterization, \$250.

~~(c) The total biennial certification annual fee includes the base fee, the sample preparation techniques fees, the test category fees per program, and, when applicable, the on-site inspection fee an administrative fee for out-of-state laboratories.~~

~~(d) Fees must be set so that the total fees support the laboratory certification program. Direct costs of the certification service include program administration, inspections, the agency's general support costs, and attorney general costs attributable to the fee function.~~

~~(e) A change fee shall be assessed if a laboratory requests additional analytes or methods at any time other than when applying for or renewing its certification. The change fee is equal to the test category certification fee for the analyte.~~

~~(f) A variance fee shall be assessed if a laboratory requests and is granted a variance from a rule adopted under this section. The variance fee is \$500 per variance.~~

~~(g) Refunds or credits shall not be made for analytes or methods requested but not approved.~~

~~(h) Certification of a laboratory shall not be awarded until all fees are paid.~~

Sec. 28. Minnesota Statutes 2008, section 144.98, is amended by adding a subdivision to read:

Subd. 3a. **Available programs, categories, and analytes.** (a) The commissioner shall accredit laboratories that test samples under the following programs:

(1) the clean water program, such as compliance monitoring under the federal Clean Water Act, and ambient monitoring of surface and groundwater, or analysis of biological tissue;

(2) the safe drinking water program, including compliance monitoring under the federal Safe Drinking Water Act, and the state requirements for monitoring private wells;

(3) the resource conservation and recovery program, including federal and state requirements for monitoring solid and hazardous wastes, biological tissue, leachates, and groundwater monitoring wells not intended as drinking water sources;

(4) the underground storage tank program; and

(5) the clean air program, including air and emissions testing under the federal Clean Air Act, and state and federal requirements for vapor intrusion monitoring.

(b) The commissioner shall maintain and publish a list of analytes available for accreditation. The list must be reviewed at least once every six months and the changes published in the State Register and posted on the program's Web site. The commissioner shall publish the notification of changes and review comments on the changes no less than 30 days from the date the list is published.

Sec. 29. Minnesota Statutes 2008, section 144.98, is amended by adding a subdivision to read:

Subd. 3b. **Additional fees.** (a) Laboratories located outside of this state that require an on-site assessment more frequent than once every two years must pay an additional assessed fee of \$3,000 per assessment for each additional on-site assessment conducted. The laboratory must pay the fee within 15 business days of receiving the commissioner's notification that an on-site assessment is required. The commissioner may conduct additional on-site assessments to determine a laboratory's continued compliance with the standards provided in subdivision 2a.

(b) A late fee of \$200 shall be added to the annual fee for accredited laboratories submitting renewal applications to the commissioner after November 1.

(c) A change fee shall be assessed if a laboratory requests additional fields of testing at any time other than when initially applying for or renewing its accreditation. A change fee does not apply for applications to add fields of testing for new analytes in response to the published notice under subdivision 3a, paragraph (b), if the laboratory holds valid accreditation for the changed test category and applies for additional analytes within the same test category. The change fee is equal to the applicable test category fee for the field of testing requested. An application that requests accreditation of multiple fields of testing within a test category requires a single payment of the applicable test category fee per application submitted.

(d) A variance fee shall be assessed if a laboratory requests a variance from a standard provided in subdivision 2a. The variance fee is \$500 per variance.

(e) The commissioner shall assess a fee for changes to laboratory information regarding ownership, name, address, or personnel. Laboratories must submit changes through the application process under subdivision 6. The information update fee is \$250 per application.

(f) Fees must be set so that the total fees support the laboratory accreditation program. Direct

costs of the accreditation service include program administration, assessments, the agency's general support costs, and attorney general costs attributable to the fee function.

Sec. 30. Minnesota Statutes 2008, section 144.98, is amended by adding a subdivision to read:

Subd. 3c. **Refunds and nonpayment.** Refunds or credits shall not be made for applications received but not approved. Accreditation of a laboratory shall not be awarded until all fees are paid.

Sec. 31. Minnesota Statutes 2008, section 144.98, is amended by adding a subdivision to read:

Subd. 6. **Application.** (a) Laboratories seeking accreditation must apply on a form provided by the commissioner, include the laboratory's procedures and quality manual, and pay the applicable fees.

(b) Laboratories may be fixed-base or mobile. The commissioner shall accredit mobile laboratories individually and require a vehicle identification number, license plate number, or other uniquely identifying information in addition to the application requirements of paragraph (a).

(c) Laboratories maintained on separate properties, even though operated under the same management or ownership, must apply separately. Laboratories with more than one building on the same or adjoining properties do not need to submit a separate application.

(d) The commissioner may accredit laboratories located out-of-state. Accreditation for out-of-state laboratories may be obtained directly from the commissioner following the requirements in paragraph (a), or out-of-state laboratories may be accredited through a reciprocal agreement if the laboratory:

(1) is accredited by a NELAP-recognized accreditation body for those fields of testing in which the laboratory requests accreditation from the commissioner;

(2) submits an application and documentation according to this subdivision; and

(3) submits a current copy of the laboratory's unexpired accreditation from a NELAP-recognized accreditation body showing the fields of accreditation for which the laboratory is currently accredited.

(e) Under the conflict of interest determinations provided in section 43A.38, subdivision 6, clause (a), the commissioner shall not accredit governmental laboratories operated by agencies of the executive branch of the state. If accreditation is required, laboratories operated by agencies of the executive branch of the state must apply for accreditation through any other NELAP-recognized accreditation body.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 32. Minnesota Statutes 2008, section 144.98, is amended by adding a subdivision to read:

Subd. 6a. **Implementation and effective date.** All laboratories must comply with standards under this section by July 1, 2009. Fees under subdivisions 3 and 3b apply to applications received and accreditations issued after June 30, 2009. Accreditations issued on or before June 30, 2009, shall expire upon their current expiration date.

Sec. 33. Minnesota Statutes 2008, section 144.98, is amended by adding a subdivision to read:

Subd. 7. **Initial accreditation and annual accreditation renewal.** (a) The commissioner shall issue or renew accreditation after receipt of the completed application and documentation required in this section, provided the laboratory maintains compliance with the standards specified in subdivision 2a, and attests to the compliance on the application form.

(b) The commissioner shall prorate the fees in subdivision 3 for laboratories applying for accreditation after December 31. The fees are prorated on a quarterly basis beginning with the quarter in which the commissioner receives the completed application from the laboratory.

(c) Applications for renewal of accreditation must be received by November 1 and no earlier than October 1 of each year. The commissioner shall send annual renewal notices to laboratories 90 days before expiration. Failure to receive a renewal notice does not exempt laboratories from meeting the annual November 1 renewal date.

(d) The commissioner shall issue all accreditations for the calendar year for which the application is made, and the accreditation shall expire on December 31 of that year.

(e) The accreditation of any laboratory that fails to submit a renewal application and fees to the commissioner expires automatically on December 31 without notice or further proceeding. Any person who operates a laboratory as accredited after expiration of accreditation or without having submitted an application and paid the fees is in violation of the provisions of this section and is subject to enforcement action under sections 144.989 to 144.993, the Health Enforcement Consolidation Act. A laboratory with expired accreditation may reapply under subdivision 6.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 34. Minnesota Statutes 2008, section 144.99, subdivision 1, is amended to read:

Subdivision 1. **Remedies available.** The provisions of chapters 103I and 157 and sections 115.71 to 115.77; 144.12, subdivision 1, paragraphs (1), (2), (5), (6), (10), (12), (13), (14), and (15); 144.1201 to 144.1204; 144.121; 144.1222; 144.35; 144.381 to 144.385; 144.411 to 144.417; 144.495; 144.71 to 144.74; 144.9501 to 144.9512; 144.97 to 144.98; 144.992; 326.70 to 326.785; 327.10 to 327.131; and 327.14 to 327.28 and all rules, orders, stipulation agreements, settlements, compliance agreements, licenses, registrations, certificates, and permits adopted or issued by the department or under any other law now in force or later enacted for the preservation of public health may, in addition to provisions in other statutes, be enforced under this section.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 35. Minnesota Statutes 2008, section 153A.17, is amended to read:

**153A.17 EXPENSES; FEES.**

~~The expenses for administering the certification requirements including the complaint handling system for hearing aid dispensers in sections 153A.14 and 153A.15 and the Consumer Information Center under section 153A.18 must be paid from initial application and examination fees, renewal fees, penalties, and fines. All fees are nonrefundable. The certificate application fee is \$350, the examination fee is \$250 for the written portion and \$250 for the practical portion each time one or the other is taken, and the trainee application fee is \$200. The penalty fee for late submission of a renewal application is \$200. The fee for verification of certification to other jurisdictions or entities is \$25. All fees, penalties, and fines received must be deposited in the state government special~~

revenue fund. The commissioner may prorate the certification fee for new applicants based on the number of quarters remaining in the annual certification period. (a) The expenses for administering the certification requirements, including the complaint handling system for hearing aid dispensers in sections 153A.14 and 153A.15, and the Consumer Information Center under section 153A.18, must be paid from initial application and examination fees, renewal fees, penalties, and fines.

(b) The fees are as follows:

(1) the initial and annual renewal certification application fee is \$600;

(2) the initial examination fee for the written portion is \$500, and for each time it is taken, thereafter;

(3) the initial examination fee for the practical portion is \$1,200, and \$600 for each time it is taken, thereafter; for individuals meeting the requirements of section 148.515, subdivision 2, the fee for the practical portion of the hearing instrument dispensing examination is \$250 each time it is taken;

(4) the trainee application fee is \$200;

(5) the penalty fee for late submission of a renewal application is \$200; and

(6) the fee for verification of certification to other jurisdictions or entities is \$25.

(c) The commissioner may prorate the certification fee for new applicants based on the number of quarters remaining in the annual certification period.

(d) All fees are nonrefundable. All fees, penalties, and fines received must be deposited in the state government special revenue fund.

(e) Beginning July 1, 2009, until June 30, 2016, a surcharge of \$100 shall be paid at the time of initial certification application or renewal to recover the commissioner's accumulated direct expenditures for administering the requirements of this chapter.

Sec. 36. Minnesota Statutes 2008, section 157.15, is amended by adding a subdivision to read:

Subd. 20. **Youth camp.** "Youth camp" has the meaning given in section 144.71, subdivision 2.

Sec. 37. Minnesota Statutes 2008, section 157.16, is amended to read:

**157.16 LICENSES REQUIRED; FEES.**

Subdivision 1. **License required annually.** A license is required annually for every person, firm, or corporation engaged in the business of conducting a food and beverage service establishment, youth camp, hotel, motel, lodging establishment, public pool, or resort. Any person wishing to operate a place of business licensed in this section shall first make application, pay the required fee specified in this section, and receive approval for operation, including plan review approval. ~~Seasonal and temporary food stands and~~ Special event food stands are not required to submit plans. Nonprofit organizations operating a special event food stand with multiple locations at an annual one-day event shall be issued only one license. Application shall be made on forms provided by the commissioner and shall require the applicant to state the full name and address of the owner of the building, structure, or enclosure, the lessee and manager of the food and beverage service



establishment, hotel, motel, lodging establishment, public pool, or resort; the name under which the business is to be conducted; and any other information as may be required by the commissioner to complete the application for license.

Subd. 2. **License renewal.** Initial and renewal licenses for all food and beverage service establishments, youth camps, hotels, motels, lodging establishments, public pools, and resorts shall be issued ~~for the calendar year for which application is made and shall expire on December 31 of such year~~ on an annual basis. Any person who operates a place of business after the expiration date of a license or without having submitted an application and paid the fee shall be deemed to have violated the provisions of this chapter and shall be subject to enforcement action, as provided in the Health Enforcement Consolidation Act, sections 144.989 to 144.993. In addition, a penalty of \$50 ~~\$60~~ shall be added to the total of the license fee for any food and beverage service establishment operating without a license as a mobile food unit, a seasonal temporary or seasonal permanent food stand, or a special event food stand, and a penalty of \$100 ~~\$120~~ shall be added to the total of the license fee for all restaurants, food carts, hotels, motels, lodging establishments, youth camps, public pools, and resorts operating without a license for a period of up to 30 days. A late fee of \$300 ~~\$360~~ shall be added to the license fee for establishments operating more than 30 days without a license.

Subd. 2a. **Food manager certification.** An applicant for certification or certification renewal as a food manager must submit to the commissioner a \$28 ~~\$35~~ nonrefundable certification fee payable to the Department of Health. The commissioner shall issue a duplicate certificate to replace a lost, destroyed, or mutilated certificate if the applicant submits a completed application on a form provided by the commissioner for a duplicate certificate and pays \$20 to the department for the cost of duplication.

Subd. 3. **Establishment fees; definitions.** (a) The following fees are required for food and beverage service establishments, youth camps, hotels, motels, lodging establishments, public pools, and resorts licensed under this chapter. Food and beverage service establishments must pay the highest applicable fee under paragraph (d), clause (1), (2), (3), or (4), and establishments serving alcohol must pay the highest applicable fee under paragraph (d), clause (6) or (7). The license fee for new operators previously licensed under this chapter for the same calendar year is one-half of the appropriate annual license fee, plus any penalty that may be required. The license fee for operators opening on or after October 1 is one-half of the appropriate annual license fee, plus any penalty that may be required.

(b) All food and beverage service establishments, except special event food stands, and all hotels, motels, lodging establishments, public pools, and resorts shall pay an annual base fee of \$150.

(c) A special event food stand shall pay a flat fee of \$40 ~~\$50~~ annually. "Special event food stand" means a fee category where food is prepared or served in conjunction with celebrations, county fairs, or special events from a special event food stand as defined in section 157.15.

(d) In addition to the base fee in paragraph (b), each food and beverage service establishment, other than a special event food stand, and each hotel, motel, lodging establishment, public pool, and resort shall pay an additional annual fee for each fee category, additional food service, or required additional inspection specified in this paragraph:

(1) Limited food menu selection, \$50 ~~\$60~~. "Limited food menu selection" means a fee category that provides one or more of the following:

- (i) prepackaged food that receives heat treatment and is served in the package;
- (ii) frozen pizza that is heated and served;
- (iii) a continental breakfast such as rolls, coffee, juice, milk, and cold cereal;
- (iv) soft drinks, coffee, or nonalcoholic beverages; or
- (v) cleaning for eating, drinking, or cooking utensils, when the only food served is prepared off site.

(2) Small establishment, including boarding establishments, ~~\$100~~ \$120. "Small establishment" means a fee category that has no salad bar and meets one or more of the following:

- (i) possesses food service equipment that consists of no more than a deep fat fryer, a grill, two hot holding containers, and one or more microwave ovens;
- (ii) serves dipped ice cream or soft serve frozen desserts;
- (iii) serves breakfast in an owner-occupied bed and breakfast establishment;
- (iv) is a boarding establishment; or
- (v) meets the equipment criteria in clause (3), item (i) or (ii), and has a maximum patron seating capacity of not more than 50.

(3) Medium establishment, ~~\$260~~ \$310. "Medium establishment" means a fee category that meets one or more of the following:

- (i) possesses food service equipment that includes a range, oven, steam table, salad bar, or salad preparation area;
- (ii) possesses food service equipment that includes more than one deep fat fryer, one grill, or two hot holding containers; or
- (iii) is an establishment where food is prepared at one location and served at one or more separate locations.

Establishments meeting criteria in clause (2), item (v), are not included in this fee category.

(4) Large establishment, ~~\$460~~ \$540. "Large establishment" means either:

- (i) a fee category that (A) meets the criteria in clause (3), items (i) or (ii), for a medium establishment, (B) seats more than 175 people, and (C) offers the full menu selection an average of five or more days a week during the weeks of operation; or
- (ii) a fee category that (A) meets the criteria in clause (3), item (iii), for a medium establishment, and (B) prepares and serves 500 or more meals per day.

(5) Other food and beverage service, including food carts, mobile food units, seasonal temporary food stands, and seasonal permanent food stands, ~~\$50~~ \$60.

(6) Beer or wine table service, ~~\$50~~ \$60. "Beer or wine table service" means a fee category where the only alcoholic beverage service is beer or wine, served to customers seated at tables.

(7) Alcoholic beverage service, other than beer or wine table service, ~~\$135~~ \$165.

"Alcohol beverage service, other than beer or wine table service" means a fee category where alcoholic mixed drinks are served or where beer or wine are served from a bar.

(8) Lodging per sleeping accommodation unit, ~~\$8~~ \$10, including hotels, motels, lodging establishments, and resorts, up to a maximum of ~~\$800~~ \$1,000. "Lodging per sleeping accommodation unit" means a fee category including the number of guest rooms, cottages, or other rental units of a hotel, motel, lodging establishment, or resort; or the number of beds in a dormitory.

(9) First public pool, ~~\$180~~ \$325; each additional public pool, ~~\$100~~ \$175. "Public pool" means a fee category that has the meaning given in section 144.1222, subdivision 4.

(10) First spa, ~~\$140~~ \$175; each additional spa, ~~\$50~~ \$100. "Spa pool" means a fee category that has the meaning given in Minnesota Rules, part 4717.0250, subpart 9.

(11) Private sewer or water, ~~\$50~~ \$60. "Individual private water" means a fee category with a water supply other than a community public water supply as defined in Minnesota Rules, chapter 4720. "Individual private sewer" means a fee category with an individual sewage treatment system which uses subsurface treatment and disposal.

(12) Additional food service, ~~\$130~~ \$150. "Additional food service" means a location at a food service establishment, other than the primary food preparation and service area, used to prepare or serve food to the public.

(13) Additional inspection fee, ~~\$300~~ \$360. "Additional inspection fee" means a fee to conduct the second inspection each year for elementary and secondary education facility school lunch programs when required by the Richard B. Russell National School Lunch Act.

(e) A fee of ~~\$350~~ for review of the construction plans must accompany the initial license application for restaurants, hotels, motels, lodging establishments, or resorts with ~~five or more sleeping units~~, seasonal food stands, and mobile food units. The fee for this construction plan review is as follows:

<u>Service Area</u>	<u>Type</u>	<u>Fee</u>
<u>Food</u>	<u>limited food menu</u>	<u>\$275</u>
	<u>small establishment</u>	<u>\$400</u>
	<u>medium establishment</u>	<u>\$450</u>
	<u>large food establishment</u>	<u>\$500</u>
	<u>additional food service</u>	<u>\$150</u>
<u>Transient food service</u>	<u>food cart</u>	<u>\$250</u>
	<u>seasonal permanent food stand</u>	<u>\$250</u>
	<u>seasonal temporary food stand</u>	<u>\$250</u>
	<u>mobile food unit</u>	<u>\$350</u>
<u>Alcohol</u>	<u>beer or wine table service</u>	<u>\$150</u>

	<u>alcohol service from bar</u>	<u>\$250</u>
<u>Lodging</u>	<u>less than 25 rooms</u>	<u>\$375</u>
	<u>25 to less than 100 rooms</u>	<u>\$400</u>
	<u>100 rooms or more</u>	<u>\$500</u>
	<u>less than five cabins</u>	<u>\$350</u>
	<u>five to less than ten cabins</u>	<u>\$400</u>
	<u>ten cabins or more</u>	<u>\$450</u>

(f) When existing food and beverage service establishments, hotels, motels, lodging establishments, or resorts, seasonal food stands, and mobile food units are extensively remodeled, a fee of \$250 must be submitted with the remodeling plans. ~~A fee of \$250 must be submitted for new construction or remodeling for a restaurant with a limited food menu selection, a seasonal permanent food stand, a mobile food unit, or a food cart, or for a hotel, motel, resort, or lodging establishment addition of less than five sleeping units.~~ The fee for this construction plan review is as follows:

<u>Service Area</u>	<u>Type</u>	<u>Fee</u>
<u>Food</u>	<u>limited food menu</u>	<u>\$250</u>
	<u>small establishment</u>	<u>\$300</u>
	<u>medium establishment</u>	<u>\$350</u>
	<u>large food establishment</u>	<u>\$400</u>
	<u>additional food service</u>	<u>\$150</u>
<u>Transient food service</u>	<u>food cart</u>	<u>\$250</u>
	<u>seasonal permanent food stand</u>	<u>\$250</u>
	<u>seasonal temporary food stand</u>	<u>\$250</u>
	<u>mobile food unit</u>	<u>\$250</u>
<u>Alcohol</u>	<u>beer or wine table service</u>	<u>\$150</u>
	<u>alcohol service from bar</u>	<u>\$250</u>
<u>Lodging</u>	<u>less than 25 rooms</u>	<u>\$250</u>
	<u>25 to less than 100 rooms</u>	<u>\$300</u>
	<u>100 rooms or more</u>	<u>\$450</u>
	<u>less than five cabins</u>	<u>\$250</u>
	<u>five to less than ten cabins</u>	<u>\$350</u>
	<u>ten cabins or more</u>	<u>\$400</u>

(g) ~~Seasonal temporary food stands and~~ Special event food stands are not required to submit construction or remodeling plans for review.

(h) Youth camps shall pay an annual single fee for food and lodging as follows:

- (1) camps with up to 99 campers, \$325;
- (2) camps with 100 to 199 campers, \$550; and
- (3) camps with 200 or more campers; \$750.

Subd. 3a. **Statewide hospitality fee.** Every person, firm, or corporation that operates a licensed boarding establishment, food and beverage service establishment, seasonal temporary or permanent food stand, special event food stand, mobile food unit, food cart, resort, hotel, motel, or lodging establishment in Minnesota must submit to the commissioner a \$35 annual statewide hospitality fee for each licensed activity. The fee for establishments licensed by the Department of Health is required at the same time the licensure fee is due. For establishments licensed by local governments, the fee is due by July 1 of each year.

Subd. 4. **Posting requirements.** Every food and beverage service establishment, for-profit youth camp, hotel, motel, lodging establishment, public pool, or resort must have the license posted in a conspicuous place at the establishment. Mobile food units, food carts, and seasonal temporary food stands shall be issued decals with the initial license and each calendar year with license renewals. The current license year decal must be placed on the unit or stand in a location determined by the commissioner. Decals are not transferable.

Sec. 38. Minnesota Statutes 2008, section 157.22, is amended to read:

**157.22 EXEMPTIONS.**

This chapter ~~shall not be construed to~~ does not apply to:

- (1) interstate carriers under the supervision of the United States Department of Health and Human Services;
- (2) any building constructed and primarily used for religious worship;
- (3) any building owned, operated, and used by a college or university in accordance with health regulations promulgated by the college or university under chapter 14;
- (4) any person, firm, or corporation whose principal mode of business is licensed under sections 28A.04 and 28A.05, is exempt at that premises from licensure as a food or beverage establishment; provided that the holding of any license pursuant to sections 28A.04 and 28A.05 shall not exempt any person, firm, or corporation from the applicable provisions of this chapter or the rules of the state commissioner of health relating to food and beverage service establishments;
- (5) family day care homes and group family day care homes governed by sections 245A.01 to 245A.16;
- (6) nonprofit senior citizen centers for the sale of home-baked goods;
- (7) fraternal or patriotic organizations that are tax exempt under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7), 501(c)(10), or 501(c)(19) of the Internal Revenue Code of 1986, or organizations related to or affiliated with such fraternal or patriotic organizations. Such organizations may organize events at which home-prepared food is donated by organization

members for sale at the events, provided:

- (i) the event is not a circus, carnival, or fair;
  - (ii) the organization controls the admission of persons to the event, the event agenda, or both; and
  - (iii) the organization's licensed kitchen is not used in any manner for the event;
- (8) food not prepared at an establishment and brought in by individuals attending a potluck event for consumption at the potluck event. An organization sponsoring a potluck event under this clause may advertise the potluck event to the public through any means. Individuals who are not members of an organization sponsoring a potluck event under this clause may attend the potluck event and consume the food at the event. Licensed food establishments other than schools cannot be sponsors of potluck events. A school may sponsor and hold potluck events in areas of the school other than the school's kitchen, provided that the school's kitchen is not used in any manner for the potluck event. For purposes of this clause, "school" means a public school as defined in section 120A.05, subdivisions 9, 11, 13, and 17, or a nonpublic school, church, or religious organization at which a child is provided with instruction in compliance with sections 120A.22 and 120A.24. Potluck event food shall not be brought into a licensed food establishment kitchen; ~~and~~
- (9) a home school in which a child is provided instruction at home; and
- (10) concession stands operated in conjunction with school-sponsored events on school property are exempt from the 21-day restriction.

Sec. 39. Minnesota Statutes 2008, section 327.14, is amended by adding a subdivision to read:

Subd. 9. **Special event recreational camping area.** "Special event recreational camping area" means a recreational camping area which operates no more than two times annually and for no more than 14 consecutive days.

Sec. 40. Minnesota Statutes 2008, section 327.15, is amended to read:

**327.15 LICENSE REQUIRED; RENEWAL; ~~PLANS FOR EXPANSION FEES.~~**

Subdivision 1. **License required; plan review.** No person, firm or corporation shall establish, maintain, conduct or operate a manufactured home park or recreational camping area within this state without first obtaining a an annual license ~~therefor~~ from the state Department of Health. Any person wishing to obtain a license shall submit an application, pay the required fee specified in this section, and receive approval for operation, including plan review approval. Application shall be made on forms provided by the commissioner and shall require the applicant to state the full name and address of the owner of the manufactured home park or recreational camping area, the name under which the business is to be conducted, and any other information as may be required by the commissioner to complete the application for license. Any person, firm, or corporation desiring to operate either a manufactured home park or a recreational camping area on the same site in connection with the other, need only obtain one license. ~~A license shall expire and be renewed as prescribed by the commissioner pursuant to section 144.122.~~ The license shall state the number of manufactured home sites and recreational camping sites allowed according to state commissioner of health approval. ~~No renewal license shall be issued if the number of sites specified in the application exceeds those of the original application.~~ The number of licensed sites shall not be increased unless

the plans for expansion or the construction for expansion are first submitted and the expansion is approved by the Department of Health. Any manufactured home park or recreational camping area located in more than one municipality shall be dealt with as two separate manufactured home parks or camping areas. The license shall be conspicuously displayed in the office of the manufactured home park or camping area. The license is not transferable as to another person or place.

Subd. 2. **License renewal.** Initial and renewal licenses for all manufactured home parks and recreational camping areas shall be issued annually and shall have an expiration date included on the license. Any person who operates a manufactured home park or recreational camping area after the expiration date of a license or without having submitted an application and paid the fee shall be deemed to have violated the provisions of this chapter and shall be subject to enforcement action, as provided in the Health Enforcement Consolidation Act, sections 144.989 to 144.993. In addition, a penalty of \$120 shall be added to the total of the license fee for any manufactured home park or recreational camping area operating without a license for a period of up to 30 days. A late fee of \$360 shall be added to the license fee for any manufactured home park or recreational camping area operating more than 30 days without a license.

Subd. 3. **Fees, manufactured home parks and recreational camping areas.** (a) The following fees are required for manufactured home parks and recreational camping areas licensed under this chapter. Recreational camping areas and manufactured home parks shall pay the highest applicable fee under paragraph (c). The license fee for new operators of a manufactured home park or recreational camping area previously licensed under this chapter for the same calendar year is one-half of the appropriate annual license fee, plus any penalty that may be required. The license fee for operators opening on or after October 1 is one-half of the appropriate annual license fee, plus any penalty that may be required.

(b) All manufactured home parks and recreational camping areas shall pay the following annual base fee:

- (1) a manufactured home park, \$150; and
- (2) a recreational camping area with:
  - (i) 24 or less sites, \$50;
  - (ii) 25-99 sites, \$212; and
  - (iii) 100 or more sites, \$300.

In addition to the base fee, manufactured home parks and recreational camping areas shall pay \$4 for each licensed site. This paragraph does not apply to special event recreational camping areas or to operators of a manufactured home park or a recreational camping area licensed under section 157.16 for the same location.

(c) In addition to the fee in paragraph (b), each manufactured home park or recreational camping area shall pay an additional annual fee for each fee category specified in this paragraph:

- (1) Manufactured home parks and recreational camping areas with public swimming pools and spas shall pay the appropriate fees specified in section 157.16.
- (2) Individual private sewer or water, \$60. "Individual private water" means a fee category with

a water supply other than a community public water supply as defined in Minnesota Rules, chapter 4720. "Individual private sewer" means a fee category with an individual sewage treatment system which uses subsurface treatment and disposal.

(d) The following fees must accompany a plan review application for initial construction of a manufactured home park or recreational camping area:

- (1) for initial construction of less than 25 sites, \$375;
- (2) for initial construction of 25 to less than 100 sites, \$400; and
- (3) for initial construction of 100 or more sites, \$500.

(e) The following fees must accompany a plan review application when an existing manufactured home park or recreational camping area is expanded:

- (1) for expansion of less than 25 sites, \$250;
- (2) for expansion of 25 and less than 100 sites, \$300; and
- (3) for expansion of 100 or more sites, \$450.

Subd. 4. **Fees, special event recreational camping areas.** (a) The following fees are required for special event recreational camping areas licensed under this chapter.

(b) All special event recreational camping areas shall pay an annual fee of \$150 plus \$1 for each licensed site.

(c) A special event recreational camping area shall pay a late fee of \$360 for failing to obtain a license prior to operating.

(d) The following fees must accompany a plan review application for initial construction of a special event recreational camping area:

- (1) for initial construction of less than 25 special event recreational camping sites, \$375;
- (2) for initial construction of 25 to less than 100 sites, \$400; and
- (3) for initial construction of 100 or more sites, \$500.

(e) The following fees must accompany a plan review application for expansion of a special event recreational camping area:

- (1) for expansion of less than 25 sites, \$250;
- (2) for expansion of 25 and less than 100 sites, \$300; and
- (3) for expansion of 100 or more sites, \$450.

Sec. 41. Minnesota Statutes 2008, section 327.16, is amended to read:

**327.16 LICENSE PLAN REVIEW APPLICATION.**

Subdivision 1. **Made to state Department of Health.** ~~The plan review application for license to operate and maintain~~ a manufactured home park or recreational camping area shall be made to



the state Department of Health, at such office and in such manner as may be prescribed by that department.

Subd. 2. **Contents.** ~~The applicant for a primary license or annual license shall make application in writing plan review application shall be made upon a form provided by the state Department of Health setting forth:~~

(1) The full name and address of the applicant or applicants, or names and addresses of the partners if the applicant is a partnership, or the names and addresses of the officers if the applicant is a corporation.

(2) A legal description of the site, lot, field, or tract of land upon which the applicant proposes to operate and maintain a manufactured home park or recreational camping area.

(3) The proposed and existing facilities on and about the site, lot, field, or tract of land for the proposed construction or alteration and maintaining of a sanitary community building for toilets, urinals, sinks, wash basins, slop-sinks, showers, drains, laundry facilities, source of water supply, sewage, garbage and waste disposal; except that no toilet facilities shall be required in any manufactured home park which permits only manufactured homes equipped with toilet facilities discharging to water carried sewage disposal systems; and method of fire and storm protection.

(4) The proposed method of lighting the structures and site, lot, field, or tract of land upon which the manufactured home park or recreational camping area is to be located.

(5) The calendar months of the year which the applicant will operate the manufactured home park or recreational camping area.

(6) Plans and drawings for new construction or alteration, including buildings, wells, plumbing and sewage disposal systems.

Subd. 3. **Fees; Approval.** ~~The application for the primary license plan review shall be submitted with all plans and specifications enumerated in subdivision 2, and payment of a fee in an amount prescribed by the state commissioner of health pursuant to section 144.122 and shall be accompanied by an approved zoning permit from the municipality or county wherein the park is to be located, or a statement from the municipality or county that it does not require an approved zoning permit. The fee for the annual license shall be in an amount prescribed by the state commissioner of health pursuant to section 144.122. All license fees paid to the commissioner of health shall be turned over to the state treasury. The fee submitted for the primary license plan review shall be retained by the state even though the proposed project is not approved and a license is denied.~~

When construction has been completed in accordance with approved plans and specifications the state commissioner of health shall promptly cause the manufactured home park or recreational camping area and appurtenances thereto to be inspected. When the inspection and report has been made and the state commissioner of health finds that all requirements of sections 327.10, 327.11, 327.14 to 327.28, and such conditions of health and safety as the state commissioner of health may require, have been met by the applicant, the state commissioner of health shall forthwith issue the primary license in the name of the state.

Subd. 4. **Sanitary facilities Compliance with current state law.** ~~During the pendency of the application for such primary license any change in the sanitary or safety facilities of the intended manufactured home park or recreational camping area shall be immediately reported in writing~~

~~to the state Department of Health through the office through which the application was made. If no objection is made by the state Department of Health to such change in such sanitary or safety facilities within 60 days of the date such change is reported, it shall be deemed to have the approval of the state Department of Health. Any manufactured home park or recreational camping area must be constructed and operated according to all applicable state electrical, fire, plumbing, and building codes.~~

Subd. 5. **Permit.** When the plans and specifications have been approved, the state Department of Health shall issue an approval report permitting the applicant to construct or make alterations upon a manufactured home park or recreational camping area and the appurtenances thereto according to the plans and specifications presented.

Such approval does not relieve the applicant from securing building permits in municipalities that require permits or from complying with any other municipal ordinance or ordinances, applicable thereto, not in conflict with this statute.

Subd. 6. **Denial of construction.** If the application to construct or make alterations upon a manufactured home park or recreational camping area and the appurtenances thereto or a ~~primary~~ license to operate and maintain the same is denied by the state commissioner of health, the commissioner shall so state in writing giving the reason or reasons for denying the application. If the objections can be corrected the applicant may amend the application and resubmit it for approval, and if denied the applicant may appeal from the decision of the state commissioner of health as provided in section 144.99, subdivision 10.

Sec. 42. Minnesota Statutes 2008, section 327.20, subdivision 1, is amended to read:

Subdivision 1. **Rules.** No domestic animals or house pets of occupants of manufactured home parks or recreational camping areas shall be allowed to run at large, or commit any nuisances within the limits of a manufactured home park or recreational camping area. Each manufactured home park or recreational camping area licensed under the provisions of sections 327.10, 327.11, and 327.14 to 327.28 shall, among other things, provide for the following, ~~in the manner hereinafter specified:~~

(1) A responsible attendant or caretaker shall be in charge of every manufactured home park or recreational camping area at all times, who shall maintain the park or area, and its facilities and equipment in a clean, orderly and sanitary condition. In any manufactured home park containing more than 50 lots, the attendant, caretaker, or other responsible park employee, shall be readily available at all times in case of emergency.

(2) All manufactured home parks shall be well drained and be located so that the drainage of the park area will not endanger any water supply. No wastewater from manufactured homes or recreational camping vehicles shall be deposited on the surface of the ground. All sewage and other water carried wastes shall be discharged into a municipal sewage system whenever available. When a municipal sewage system is not available, a sewage disposal system acceptable to the state commissioner of health shall be provided.

(3) No manufactured home shall be located closer than three feet to the side lot lines of a manufactured home park, if the abutting property is improved property, or closer than ten feet to a public street or alley. Each individual site shall abut or face on a driveway or clear unoccupied space of not less than 16 feet in width, which space shall have unobstructed access to a public highway or alley. There shall be an open space of at least ten feet between the sides of adjacent manufactured

homes including their attachments and at least three feet between manufactured homes when parked end to end. The space between manufactured homes may be used for the parking of motor vehicles and other property, if the vehicle or other property is parked at least ten feet from the nearest adjacent manufactured home position. The requirements of this paragraph shall not apply to recreational camping areas and variances may be granted by the state commissioner of health in manufactured home parks when the variance is applied for in writing and in the opinion of the commissioner the variance will not endanger the health, safety, and welfare of manufactured home park occupants.

(4) An adequate supply of water of safe, sanitary quality shall be furnished at each manufactured home park or recreational camping area. The source of the water supply shall first be approved by the state Department of Health.

(5) All plumbing shall be installed in accordance with the rules of the state commissioner of labor and industry and the provisions of the Minnesota Plumbing Code.

(6) In the case of a manufactured home park with less than ten manufactured homes, a plan for the sheltering or the safe evacuation to a safe place of shelter of the residents of the park in times of severe weather conditions, such as tornadoes, high winds, and floods. The shelter or evacuation plan shall be developed with the assistance and approval of the municipality where the park is located and shall be posted at conspicuous locations throughout the park. The park owner shall provide each resident with a copy of the approved shelter or evacuation plan, as provided by section 327C.01, subdivision 1c. Nothing in this paragraph requires the Department of Health to review or approve any shelter or evacuation plan developed by a park. Failure of a municipality to approve a plan submitted by a park shall not be grounds for action against the park by the Department of Health if the park has made a good faith effort to develop the plan and obtain municipal approval.

(7) A manufactured home park with ten or more manufactured homes, licensed prior to March 1, 1988, shall provide a safe place of shelter for park residents or a plan for the evacuation of park residents to a safe place of shelter within a reasonable distance of the park for use by park residents in times of severe weather, including tornadoes and high winds. The shelter or evacuation plan must be approved by the municipality by March 1, 1989. The municipality may require the park owner to construct a shelter if it determines that a safe place of shelter is not available within a reasonable distance from the park. A copy of the municipal approval and the plan shall be submitted by the park owner to the Department of Health. The park owner shall provide each resident with a copy of the approved shelter or evacuation plan, as provided by section 327C.01, subdivision 1c.

(8) A manufactured home park with ten or more manufactured homes, receiving a ~~primary~~ an initial license after March 1, 1988, must provide the type of shelter required by section 327.205, except that for manufactured home parks established as temporary, emergency housing in a disaster area declared by the President of the United States or the governor, an approved evacuation plan may be provided in lieu of a shelter for a period not exceeding 18 months.

(9) For the purposes of this subdivision, "park owner" and "resident" have the ~~meaning~~ meanings given them in section 327C.01.

Sec. 43. Minnesota Statutes 2008, section 327.20, is amended by adding a subdivision to read:

Subd. 4. **Special event recreational camping areas.** Each special event camping area licensed under sections 327.10, 327.11, and 327.14 to 327.28 is subject to this section.

(1) Recreational camping vehicles and tents, including attachments, must be separated from each other and other structures by at least seven feet.

(2) A minimum area of 300 square feet per site must be provided and the total number of sites must not exceed one site for every 300 square feet of usable land area.

(3) Each site must abut or face a driveway or clear unoccupied space of at least 16 feet in width, which space must have unobstructed access to a public roadway.

(4) If no approved on-site water supply system is available, hauled water may be used, provided that persons using hauled water comply with Minnesota Rules, parts 4720.4000 to 4720.4600.

(5) Nonburied sewer lines may be permitted provided they are of approved materials, watertight, and properly maintained.

(6) If a sanitary dumping station is not provided on-site, arrangements must be made with a licensed sewage pumper to service recreational camping vehicle holding tanks as needed.

(7) Toilet facilities must be provided consisting of toilets connected to an approved sewage disposal system, portable toilets, or approved, properly constructed privies.

(8) Toilets must be provided in the ratio of one toilet for each sex for each 150 sites.

(9) Toilets must be not more than 400 feet from any site.

(10) If a central building or buildings are provided with running water, then toilets and handwashing lavatories must be provided in the building or buildings that meet the requirements of this subdivision.

(11) Showers, if provided, must be provided in the ratio of one shower for each sex for each 250 sites. Showerheads must be provided, where running water is available, for each camping event exceeding two nights.

(12) Central toilet and shower buildings, if provided, must be constructed with adequate heating, ventilation, and lighting, and floors of impervious material sloped to drain. Walls must be of a washable material. Permanent facilities must meet the requirements of the Americans with Disabilities Act.

(13) An adequate number of durable, covered, watertight containers must be provided for all garbage and refuse. Garbage and refuse must be collected as often as necessary to prevent nuisance conditions.

(14) Campgrounds must be located in areas free of poison ivy or other noxious weeds considered detrimental to health. Sites must not be located in areas of tall grass or weeds and sites must be adequately drained.

(15) Campsites for recreational vehicles may not be located on inclines of greater than eight percent grade or one inch drop per lineal foot.

(16) A responsible attendant or caretaker must be available on-site at all times during the operation of any special event recreational camping area that has 50 or more sites.

Sec. 44. MINNESOTA COLORECTAL CANCER PREVENTION DEMONSTRATION

**PROJECT.**

Subdivision 1. **Establishment.** The commissioner of health shall award grants to Hennepin County Medical Center and MeritCare Bemidji for a colorectal screening demonstration project to provide screening to uninsured and underinsured women and men. The project shall expire December 31, 2010.

Subd. 2. **Eligibility.** To be eligible for colorectal screening under this demonstration project, an applicant must:

- (1) be at least 50 years of age, or under the age of 50 and at high risk for colon cancer;
- (2) be uninsured, or if insured, have coverage that does not cover the full cost of colorectal cancer screenings;
- (3) not be eligible for medical assistance, general assistance medical care, or MinnesotaCare programs; and
- (4) have a gross family income at or below 250 percent of the federal poverty level.

Subd. 3. **Services.** Services provided under this project shall include:

- (1) colorectal cancer screening, according to standard practices of medicine, or guidelines provided by the Institute for Clinical Systems Improvement or the American Cancer Society;
- (2) follow-up services for abnormal tests; and
- (3) diagnostic services to determine the extent and proper course of treatment.

Subd. 4. **Project evaluation.** The commissioner of health shall evaluate the demonstration project and make recommendations for increasing the number of persons in Minnesota who receive recommended colon cancer screening. The commissioner of health shall submit the evaluation and recommendations to the legislature by January 15, 2011.

**Sec. 45. RESEARCH OF EXPOSURE PATHWAYS FOR PERFLUOROCHEMICALS.**

The commissioner of health shall study and report to the legislature by January 15, 2011, on the exposure pathways for perfluorochemicals, focusing on food sources that might be affected by contact with contaminated water or air. This research will be performed to the extent that nonstate funds and environmental health tracking funds are available and include garden vegetables produced or consumed by a representative sample of the population from the east metropolitan area including indigenous people and people of color. In developing and performing the research, the commissioner must convene and consult with a citizen advisory group consisting of residents from the east metropolitan area, including indigenous people and people of color.

**Sec. 46. FEASIBILITY PILOT PROJECT FOR CANCER SURVEILLANCE.**

The commissioner of health must provide a grant to the Hennepin County Medical Center for a one-year feasibility pilot project to collect occupational, residential, and military service history data from newly diagnosed cancer patients at the Hennepin County Medical Center's Cancer Center. Funding for this grant shall come from the Department of Health's current resources for the Chronic Disease and Environmental Epidemiology Section.

Under this pilot project, Hennepin County Medical Center will design an expansion of its existing cancer registry to include the collection of additional data, including the cancer patient's occupational, residential, and military service history. Patient consent is required for collection of these additional data. The consent must be in writing and must contain notice informing the patient about private and confidential data concerning the patient pursuant to Minnesota Statutes, section 13.04, subdivision 2. The patient is entitled to opt out of the project at any time. The data collection expansion may also include the cancer patient's possible toxic environmental exposure history, if known. The purpose of this pilot project is to determine the following:

- (1) the feasibility of collecting these data on a statewide scale;
- (2) the potential design of a self-administered patient questionnaire template; and
- (3) necessary qualifications for staff who will collect these data.

Hennepin County Medical Center must report the results of this pilot project to the legislature by October 1, 2010.

**Sec. 47. SMOKING CESSATION.**

The commissioner of health must prioritize smoking prevention and smoking cessation activities in low-income, indigenous, and minority communities in their collaborations with the organization specifically described in Minnesota Statutes, section 144.396, subdivision 8.

**Sec. 48. MEDICAL RESPONSE UNIT REIMBURSEMENT PILOT PROGRAM.**

(a) The Department of Public Safety or its contract designee shall collaborate with the Minnesota Ambulance Association to create the parameters of the medical response unit reimbursement pilot program, including determining criteria for baseline data reporting.

(b) In conducting the pilot program, the Department of Public Safety must consult with the Minnesota Ambulance Association, Minnesota Fire Chiefs Association, Emergency Services Regulatory Board, and the Minnesota Council of Health Plans to:

(1) identify no more than five medical response units registered as medical response units with the Minnesota Emergency Medical Services Regulatory Board according to Minnesota Statutes, chapter 144E, to participate in the program;

- (2) outline and develop criteria for reimbursement;
- (3) determine the amount of reimbursement for each unit response; and
- (4) collect program data to be analyzed for a final report.

(c) Further criteria for the medical response unit reimbursement pilot program shall include:

(1) the pilot program will expire on December 31, 2010, or when the appropriation is extended, whichever occurs first;

(2) a report shall be made to the legislature by March 1, 2011, by the Department of Public Safety or its contractor as to the effectiveness and value of this reimbursement pilot program to the emergency medical services delivery system, any actual or potential savings to the health care system, and impact on patient outcomes;

(3) participating medical response units must adhere to the requirements of this pilot program outlined in an agreement between the Department of Public Safety and the medical response unit, including but not limited to, requirements relating to data collection, response criteria, and patient outcomes and disposition;

(4) individual entities licensed to provide ambulance care under Minnesota Statutes, chapter 144E, are not eligible for participation in this pilot program;

(5) if a participating medical response unit withdraws from the pilot program, the Department of Public Safety in consultation with the Minnesota Ambulance Association may choose another pilot site if funding is available;

(6) medical response units must coordinate their operations under this pilot project with the ambulance service or services licensed to provide care in their first response geographic areas;

(7) licensed ambulance services that participate with the medical response unit in the pilot program assume no financial or legal liability for the actions of the participating medical response unit; and

(8) the Department of Public Safety and its pilot program partners have no ongoing responsibility to reimburse medical response units beyond the parameters of the pilot program.

#### **Sec. 49. REVIEW OF PROPOSED REGULATIONS FOR BODY ART TECHNICIANS AND BODY ART ESTABLISHMENTS.**

The commissioner of health shall review proposed regulatory legislation for body art technicians and body art establishments and develop recommendations on the proper level of regulation needed for body art technicians and establishments in order to protect public health. The recommendations must include a review of how other states comply with the American Association of Blood Banks standards, how regulatory requirements affect currently operating body art establishments, and the appropriate level of coordination between the state and local jurisdictions that currently regulate body art establishments. The commissioner shall submit the results of the review and possible regulatory recommendations for body art technicians and establishments to the chairs and ranking minority members of the legislative committees with jurisdiction over health care by January 15, 2010.

#### **Sec. 50. HEARING AIDS; ENFORCEMENT.**

Costs incurred by the Minnesota Department of Health for conducting investigations of unlicensed hearing aid dispensers shall be apportioned between all licensed or credentialed professions that dispense hearing aids.

**EFFECTIVE DATE.** This section is effect July 1, 2011.

#### **Sec. 51. REPEALER.**

(a) Minnesota Statutes 2008, sections 103I.112; 144.9501, subdivision 17b; and 327.14, subdivisions 5 and 6, are repealed.

(b) Minnesota Rules, part 4626.2015, subpart 9, is repealed.

### **ARTICLE 11**

**HEALTH-RELATED FEES**

Section 1. Minnesota Statutes 2008, section 148D.180, subdivision 1, is amended to read:

Subdivision 1. **Application fees.** Application fees for licensure are as follows:

- (1) for a licensed social worker, \$45;
- (2) for a licensed graduate social worker, \$45;
- (3) for a licensed independent social worker, ~~\$90~~ \$45;
- (4) for a licensed independent clinical social worker, ~~\$90~~ \$45;
- (5) for a temporary license, \$50; and
- (6) for a licensure by endorsement, ~~\$150~~ \$85.

The fee for criminal background checks is the fee charged by the Bureau of Criminal Apprehension. The criminal background check fee must be included with the application fee as required pursuant to section 148D.055.

Sec. 2. Minnesota Statutes 2008, section 148D.180, subdivision 2, is amended to read:

Subd. 2. **License fees.** License fees are as follows:

- (1) for a licensed social worker, ~~\$115.20~~ \$81;
- (2) for a licensed graduate social worker, ~~\$201.60~~ \$144;
- (3) for a licensed independent social worker, ~~\$302.40~~ \$216;
- (4) for a licensed independent clinical social worker, ~~\$331.20~~ \$238.50;
- (5) for an emeritus license, \$43.20; and
- (6) for a temporary leave fee, the same as the renewal fee specified in subdivision 3.

If the licensee's initial license term is less or more than 24 months, the required license fees must be prorated proportionately.

Sec. 3. Minnesota Statutes 2008, section 148D.180, subdivision 3, is amended to read:

Subd. 3. **Renewal fees.** Renewal fees for licensure are as follows:

- (1) for a licensed social worker, ~~\$115.20~~ \$81;
- (2) for a licensed graduate social worker, ~~\$201.60~~ \$144;
- (3) for a licensed independent social worker, ~~\$302.40~~ \$216; and
- (4) for a licensed independent clinical social worker, ~~\$331.20~~ \$238.50.

Sec. 4. Minnesota Statutes 2008, section 148D.180, subdivision 5, is amended to read:

Subd. 5. **Late fees.** Late fees are as follows:



- (1) renewal late fee, ~~one-half~~ one-fourth of the renewal fee specified in subdivision 3; and
- (2) supervision plan late fee, \$40.

Sec. 5. Minnesota Statutes 2008, section 148E.180, subdivision 1, is amended to read:

Subdivision 1. **Application fees.** Application fees for licensure are as follows:

- (1) for a licensed social worker, \$45;
- (2) for a licensed graduate social worker, \$45;
- (3) for a licensed independent social worker, ~~\$90~~ \$45;
- (4) for a licensed independent clinical social worker, ~~\$90~~ \$45;
- (5) for a temporary license, \$50; and
- (6) for a licensure by endorsement, ~~\$150~~ \$85.

The fee for criminal background checks is the fee charged by the Bureau of Criminal Apprehension. The criminal background check fee must be included with the application fee as required according to section 148E.055.

Sec. 6. Minnesota Statutes 2008, section 148E.180, subdivision 2, is amended to read:

Subd. 2. **License fees.** License fees are as follows:

- (1) for a licensed social worker, ~~\$115.20~~ \$81;
- (2) for a licensed graduate social worker, ~~\$201.60~~ \$144;
- (3) for a licensed independent social worker, ~~\$302.40~~ \$216;
- (4) for a licensed independent clinical social worker, ~~\$331.20~~ \$238.50;
- (5) for an emeritus license, \$43.20; and
- (6) for a temporary leave fee, the same as the renewal fee specified in subdivision 3.

If the licensee's initial license term is less or more than 24 months, the required license fees must be prorated proportionately.

Sec. 7. Minnesota Statutes 2008, section 148E.180, subdivision 3, is amended to read:

Subd. 3. **Renewal fees.** Renewal fees for licensure are as follows:

- (1) for a licensed social worker, ~~\$115.20~~ \$81;
- (2) for a licensed graduate social worker, ~~\$201.60~~ \$144;
- (3) for a licensed independent social worker, ~~\$302.40~~ \$216; and
- (4) for a licensed independent clinical social worker, ~~\$331.20~~ \$238.50.

Sec. 8. Minnesota Statutes 2008, section 148E.180, subdivision 5, is amended to read:

Subd. 5. **Late fees.** Late fees are as follows:

- (1) renewal late fee, ~~one-half~~ one-fourth of the renewal fee specified in subdivision 3; and
- (2) supervision plan late fee, \$40.

Sec. 9. Minnesota Statutes 2008, section 152.126, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For purposes of this section, the terms defined in this subdivision have the meanings given.

(a) "Board" means the Minnesota State Board of Pharmacy established under chapter 151.

(b) "Controlled substances" means those substances listed in section 152.02, subdivisions 3 ~~and 4 to 5~~, and those substances defined by the board pursuant to section 152.02, subdivisions 7, 8, and 12.

(c) "Dispense" or "dispensing" has the meaning given in section 151.01, subdivision 30. Dispensing does not include the direct administering of a controlled substance to a patient by a licensed health care professional.

(d) "Dispenser" means a person authorized by law to dispense a controlled substance, pursuant to a valid prescription. For the purposes of this section, a dispenser does not include a licensed hospital pharmacy that distributes controlled substances for inpatient hospital care or a veterinarian who is dispensing prescriptions under section 156.18.

(e) "Prescriber" means a licensed health care professional who is authorized to prescribe a controlled substance under section 152.12, subdivision 1.

(f) "Prescription" has the meaning given in section 151.01, subdivision 16.

Sec. 10. Minnesota Statutes 2008, section 152.126, subdivision 2, is amended to read:

Subd. 2. **Prescription electronic reporting system.** (a) The board shall establish by January 1, 2010, an electronic system for reporting the information required under subdivision 4 for all controlled substances dispensed within the state.

(b) The board may contract with a vendor for the purpose of obtaining technical assistance in the design, implementation, operation, and maintenance of the electronic reporting system. ~~The vendor's role shall be limited to providing technical support to the board concerning the software, databases, and computer systems required to interface with the existing systems currently used by pharmacies to dispense prescriptions and transmit prescription data to other third parties.~~

Sec. 11. Minnesota Statutes 2008, section 152.126, subdivision 6, is amended to read:

Subd. 6. **Access to reporting system data.** (a) Except as indicated in this subdivision, the data submitted to the board under subdivision 4 is private data on individuals as defined in section 13.02, subdivision 12, and not subject to public disclosure.

(b) Except as specified in subdivision 5, the following persons shall be considered permissible users and may access the data submitted under subdivision 4 in the same or similar manner, and for the same or similar purposes, as those persons who are authorized to access similar private data on individuals under federal and state law:

(1) a prescriber, to the extent the information relates specifically to a current patient, to whom the prescriber is prescribing or considering prescribing any controlled substance;

(2) a dispenser, to the extent the information relates specifically to a current patient to whom that dispenser is dispensing or considering dispensing any controlled substance;

(3) an individual who is the recipient of a controlled substance prescription for which data was submitted under subdivision 4, or a guardian of the individual, parent or guardian of a minor, or health care agent of the individual acting under a health care directive under chapter 145C;

(4) personnel of the board specifically assigned to conduct a bona fide investigation of a specific licensee;

(5) personnel of the board engaged in the collection of controlled substance prescription information as part of the assigned duties and responsibilities under this section;

(6) authorized personnel of a vendor under contract with the board who are engaged in the design, implementation, operation, and maintenance of the electronic reporting system as part of the assigned duties and responsibilities of their employment, provided that access to data is limited to the minimum amount necessary to ~~test and maintain the system databases~~ carry out such duties and responsibilities;

(7) federal, state, and local law enforcement authorities acting pursuant to a valid search warrant; and

(8) personnel of the medical assistance program assigned to use the data collected under this section to identify recipients whose usage of controlled substances may warrant restriction to a single primary care physician, a single outpatient pharmacy, or a single hospital.

For purposes of clause (3), access by an individual includes persons in the definition of an individual under section 13.02.

(c) Any permissible user identified in paragraph (b), who directly accesses the data electronically, shall implement and maintain a comprehensive information security program that contains administrative, technical, and physical safeguards that are appropriate to the user's size and complexity, and the sensitivity of the personal information obtained. The permissible user shall identify reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of personal information that could result in the unauthorized disclosure, misuse, or other compromise of the information and assess the sufficiency of any safeguards in place to control the risks.

(d) The board shall not release data submitted under this section unless it is provided with evidence, satisfactory to the board, that the person requesting the information is entitled to receive the data.

(e) The board shall not release the name of a prescriber without the written consent of the prescriber or a valid search warrant or court order. The board shall provide a mechanism for a prescriber to submit to the board a signed consent authorizing the release of the prescriber's name when data containing the prescriber's name is requested.

(f) The board shall maintain a log of all persons who access the data and shall ensure that any

permissible user complies with paragraph (c) prior to attaining direct access to the data.

(g) Section 13.05, subdivision 6, shall apply to any contract the board enters into pursuant to subdivision 2. A vendor shall not use data collected under this section for any purpose not specified in this section.

**Sec. 12. REPEALER.**

Minnesota Statutes 2008, section 148D.180, subdivision 8, is repealed.

**ARTICLE 12**

**HUMAN SERVICES FORECAST ADJUSTMENTS**

**Section 1. SUMMARY OF APPROPRIATIONS; DEPARTMENT OF HUMAN SERVICES FORECAST ADJUSTMENT.**

The dollar amounts shown are added to or, if shown in parentheses, are subtracted from the appropriations in Laws 2008, chapter 363, from the general fund, or any other fund named, to the Department of Human Services for the purposes specified in this article, to be available for the fiscal year indicated for each purpose. The figure "2009" used in this article means that the appropriation or appropriations listed are available for the fiscal year ending June 30, 2009.

**Sec. 2. COMMISSIONER OF HUMAN SERVICES**

**Subdivision 1. Total Appropriation \$ (478,994,000)**

Appropriations by Fund

	<u>2009</u>
<u>General</u>	<u>(445,130,000)</u>
<u>Health Care Access</u>	<u>(19,460,000)</u>
<u>Federal TANF</u>	<u>(14,404,000)</u>

**Subd. 2. Revenue and Pass-Through**

<u>Federal TANF</u>	<u>1,107,000</u>
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**Subd. 3. Children and Economic Assistance Grants**

<u>General</u>	<u>27,002,000</u>
<u>Federal TANF</u>	<u>(16,211,000)</u>

The amounts that may be spent from this appropriation for each purpose are as follows:

**(a) MFIP/DWP Grants**

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General 17,530,000  
Federal TANF (16,211,000)

**(b) MFIP Child Care Assistance Grants** 4,933,000

**(c) General Assistance Grants** 1,458,000

**(d) Minnesota Supplemental Aid Grants** 513,000

**(e) Group Residential Housing Grants** 2,568,000

**Subd. 4. Basic Health Care Grants**

General (224,341,000)

Health Care Access (19,460,000)

The amounts that may be spent from this appropriation for each purpose are as follows:

**(a) MinnesotaCare**

Health Care Access (19,460,000)

**(b) MA Basic Health Care - Families and Children** (100,055,000)

**(c) MA Basic Health Care - Elderly and Disabled** (136,795,000)

**(d) General Assistance Medical Care** 12,539,000

**Subd. 5. Continuing Care Grants** (247,791,000)

The amounts that may be spent from this appropriation for each purpose are as follows:

**(a) MA Long-Term Care Facilities** (59,204,000)

**(b) MA Long-Term Care Waivers** (168,927,000)

**(c) Chemical Dependency Entitlement Grants** (19,660,000)

**Sec. 3. EFFECTIVE DATE.**

Sections 1 and 2 are effective the day following final enactment.

**ARTICLE 13  
APPROPRIATIONS**

Section 1. **SUMMARY OF APPROPRIATIONS.**

The amounts shown in this section summarize direct appropriations by fund made in this article.

	<u>2010</u>	<u>2011</u>	<u>Total</u>
<u>General</u>	\$ 4,452,323,000	\$ 5,280,470,000	\$ 9,732,793,000
<u>State Government Special Revenue</u>	62,451,000	61,515,000	123,966,000
<u>Health Care Access</u>	489,995,000	568,298,000	1,058,293,000
<u>Federal TANF</u>	301,220,000	268,711,000	569,931,000
<u>Lottery Prize</u>	1,665,000	1,665,000	3,330,000
<u>Federal Fund</u>	110,000,000	0	110,000,000
<b><u>Total</u></b>	<b>\$ 5,417,704,000</b>	<b>\$ 6,180,659,000</b>	<b>\$ 11,598,363,000</b>

Sec. 2. **HEALTH AND HUMAN SERVICES APPROPRIATION.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. "The first year" is fiscal year 2010. "The second year" is fiscal year 2011. "The biennium" is fiscal years 2010 and 2011. Appropriations for the fiscal year ending June 30, 2009, are effective the day following final enactment.

**APPROPRIATIONS**  
**Available for the Year**  
**Ending June 30**  
**2010                      2011**

Sec. 3. **HUMAN SERVICES**

Subdivision 1. **Total Appropriation**                      \$    **5,230,100,000**    \$    **5,997,715,000**

	<u>Appropriations by Fund</u>	
	<u>2010</u>	<u>2011</u>
<u>General</u>	4,376,839,000	5,211,018,000
<u>State Government Special Revenue</u>	1,315,000	565,000
<u>Health Care Access</u>	450,792,000	527,489,000
<u>Federal TANF</u>	289,487,000	256,978,000
<u>Lottery Prize</u>	1,665,000	1,665,000

<u>Federal Fund</u>	<u>110,000,000</u>	<u>0</u>
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**Receipts for Systems Projects.** Appropriations and federal receipts for information systems projects for MAXIS, PRISM, MMIS, and SSIS must be deposited in the state system account authorized in Minnesota Statutes, section 256.014. Money appropriated for computer projects approved by the Minnesota Office of Enterprise Technology, funded by the legislature, and approved by the commissioner of finance, may be transferred from one project to another and from development to operations as the commissioner of human services considers necessary, except that any transfers to one project that exceed \$1,000,000 or multiple transfers to one project that exceed \$1,000,000 in total require the express approval of the legislature. The preceding requirement for legislative approval does not apply to transfers made to establish a project's initial operating budget each year; instead, the requirements of section 11, subdivision 2, of this article apply to those transfers. Any unexpended balance in the appropriation for these projects does not cancel but is available for ongoing development and operations. Any computer project with a total cost exceeding \$1,000,000, including, but not limited to, a replacement for the proposed HealthMatch system, shall not be commenced without the express approval of the legislature.

**HealthMatch Systems Project.** In fiscal year 2010, \$3,054,000 shall be transferred from the HealthMatch account in the state systems account in the special revenue fund to the general fund.

**Nonfederal Share Transfers.** The nonfederal share of activities for which federal administrative reimbursement is appropriated to the commissioner may be transferred to the special revenue fund.

**TANF Maintenance of Effort.**

(a) In order to meet the basic maintenance of effort (MOE) requirements of the TANF block grant specified under Code of Federal Regulations, title 45, section 263.1, the commissioner may only report nonfederal money expended for allowable activities listed in the following clauses as TANF/MOE expenditures:

(1) MFIP cash, diversionary work program, and food assistance benefits under Minnesota Statutes, chapter 256J;

(2) the child care assistance programs under Minnesota Statutes, sections 119B.03 and 119B.05, and county child care administrative costs under Minnesota Statutes, section 119B.15;

(3) state and county MFIP administrative costs under Minnesota Statutes, chapters 256J and 256K;

(4) state, county, and tribal MFIP employment services under Minnesota Statutes, chapters 256J and 256K;

(5) expenditures made on behalf of noncitizen MFIP recipients who qualify for the medical assistance without federal financial participation program under Minnesota Statutes, section 256B.06, subdivision 4, paragraphs (d), (e), and (j); and

(6) qualifying working family credit expenditures under Minnesota Statutes, section 290.0671.

(b) The commissioner shall ensure that sufficient qualified nonfederal expenditures are made each year to meet the state's TANF/MOE requirements. For the activities listed in paragraph (a), clauses (2) to (6), the commissioner may only report expenditures that are excluded from the definition of assistance under Code of Federal Regulations, title 45, section 260.31.

(c) For fiscal years beginning with state fiscal year 2003, the commissioner shall



ensure that the maintenance of effort used by the commissioner of finance for the February and November forecasts required under Minnesota Statutes, section 16A.103, contains expenditures under paragraph (a), clause (1), equal to at least 16 percent of the total required under Code of Federal Regulations, title 45, section 263.1.

(d) For the federal fiscal years beginning on or after October 1, 2007, the commissioner may not claim an amount of TANF/MOE in excess of the 75 percent standard in Code of Federal Regulations, title 45, section 263.1(a)(2), except:

(1) to the extent necessary to meet the 80 percent standard under Code of Federal Regulations, title 45, section 263.1(a)(1), if it is determined by the commissioner that the state will not meet the TANF work participation target rate for the current year;

(2) to provide any additional amounts under Code of Federal Regulations, title 45, section 264.5, that relate to replacement of TANF funds due to the operation of TANF penalties; and

(3) to provide any additional amounts that may contribute to avoiding or reducing TANF work participation penalties through the operation of the excess MOE provisions of Code of Federal Regulations, title 45, section 261.43(a)(2).

For the purposes of clauses (1) to (3), the commissioner may supplement the MOE claim with working family credit expenditures to the extent such expenditures or other qualified expenditures are otherwise available after considering the expenditures allowed in this section.

(e) Minnesota Statutes, section 256.011, subdivision 3, which requires that federal grants or aids secured or obtained under that subdivision be used to reduce any direct appropriations provided by law, do not apply

if the grants or aids are federal TANF funds.

(f) Notwithstanding any contrary provision in this article, this provision expires June 30, 2013.

**Working Family Credit Expenditures as TANF/MOE.** The commissioner may claim as TANF/MOE up to \$6,707,000 per year of working family credit expenditures for fiscal year 2010 through fiscal year 2011.

**Working Family Credit Expenditures to be Claimed for TANF/MOE.** The commissioner may count the following amounts of working family credit expenditure as TANF/MOE:

- (1) fiscal year 2010, \$30,217,000;
- (2) fiscal year 2011, \$55,596,000;
- (3) fiscal year 2012, \$28,519,000; and
- (4) fiscal year 2013, \$22,138,000.

Notwithstanding any contrary provision in this article, this rider expires June 30, 2013.

**TANF Transfer to Federal Child Care and Development Fund.** The following TANF fund amounts are appropriated to the commissioner for the purposes of MFIP and transition year child care under Minnesota Statutes, section 119B.05:

- (1) fiscal year 2010, \$5,909,000;
- (2) fiscal year 2011, \$9,808,000;
- (3) fiscal year 2012, \$10,826,000; and
- (4) fiscal year 2013, \$4,026,000.

The commissioner shall authorize the transfer of sufficient TANF funds to the federal child care and development fund to meet this appropriation and shall ensure that all transferred funds are expended according to federal child care and development fund regulations.

**Food Stamps Employment and Training.**

(a) The commissioner shall apply for and claim the maximum allowable federal matching funds under United States Code, title 7, section 2025, paragraph (h), for state expenditures made on behalf of family stabilization services participants voluntarily engaged in food stamp employment and training activities, where appropriate.

(b) Notwithstanding Minnesota Statutes, sections 256D.051, subdivisions 1a, 6b, and 6c, and 256J.626, federal food stamps employment and training funds received as reimbursement of MFIP consolidated fund grant expenditures for diversionary work program participants and child care assistance program expenditures for two-parent families must be deposited in the general fund. The amount of funds must be limited to \$3,350,000 in fiscal year 2010 and \$4,440,000 in fiscal years 2011 through 2013, contingent on approval by the federal Food and Nutrition Service.

(c) Consistent with the receipt of these federal funds, the commissioner may adjust the level of working family credit expenditures claimed as TANF maintenance of effort. Notwithstanding any contrary provision in this article, this rider expires June 30, 2013.

**ARRA Food Support Administration.**

The funds available for food support administration under the American Recovery and Reinvestment Act (ARRA) of 2009 are appropriated to the commissioner to pay actual costs of implementing the food support benefit increases, increased eligibility determinations, and outreach. Of these funds, 20 percent shall be allocated to the commissioner and 80 percent shall be allocated to counties. The commissioner shall allocate the county portion based on caseload. Reimbursement shall be based on actual costs reported by counties through existing processes. Tribal reimbursement must be made from the state portion based on a caseload factor equivalent to that of a

county.

**ARRA Food Support Benefit Increases.** The funds provided for food support benefit increases under the Supplemental Nutrition Assistance Program provisions of the American Recovery and Reinvestment Act (ARRA) of 2009 must be used for benefit increases beginning July 1, 2009.

**Emergency Fund for the TANF Program.** TANF Emergency Contingency funds available under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) are appropriated to the commissioner. The commissioner must request TANF Emergency Contingency funds from the Secretary of the Department of Health and Human Services to the extent the commissioner meets or expects to meet the requirements of section 403(c) of the Social Security Act. The commissioner must seek to maximize such grants. The funds received must be used as appropriated. Each county must maintain the county's current level of emergency assistance funding under the MFIP consolidated fund and use the funds under this paragraph to supplement existing emergency assistance funding levels.

**Subd. 2. Agency Management**

The amounts that may be spent from the appropriation for each purpose are as follows:

**(a) Financial Operations**

	<u>Appropriations by Fund</u>	
<u>General</u>	<u>3,380,000</u>	<u>3,908,000</u>
<u>Health Care Access</u>	<u>1,281,000</u>	<u>1,016,000</u>
<u>Federal TANF</u>	<u>122,000</u>	<u>122,000</u>

**(b) Legal and Regulatory Operations**

	<u>Appropriations by Fund</u>	
<u>General</u>	<u>13,749,000</u>	<u>13,534,000</u>

<u>State Government</u>		
<u>Special Revenue</u>	<u>440,000</u>	<u>440,000</u>
<u>Health Care Access</u>	<u>943,000</u>	<u>943,000</u>
<u>Federal TANF</u>	<u>100,000</u>	<u>100,000</u>

**(c) Management Operations**

	<u>Appropriations by Fund</u>	
<u>General</u>	<u>4,334,000</u>	<u>4,562,000</u>
<u>Health Care Access</u>	<u>242,000</u>	<u>242,000</u>

**Lease Cost Reduction.** Base level funding to the commissioner shall be reduced by \$381,000 in fiscal year 2010, and \$153,000 in fiscal year 2011, to reflect a reduction in lease costs related to the Minnehaha Avenue building.

**Base Adjustment.** The general fund base is increased by \$153,000 in each of fiscal years 2012 and 2013.

**(d) Information Technology Operations**

	<u>Appropriations by Fund</u>	
<u>General</u>	<u>28,077,000</u>	<u>28,077,000</u>
<u>Health Care Access</u>	<u>4,856,000</u>	<u>4,868,000</u>

<b><u>Subd. 3. Revenue and Pass-Through Revenue Expenditures</u></b>	<u>65,746,000</u>	<u>67,068,000</u>
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This appropriation is from the federal TANF fund.

**Subd. 4. Children and Economic Assistance Grants**

The amounts that may be spent from this appropriation for each purpose are as follows:

**(a) MFIP/DWP Grants**

	<u>Appropriations by Fund</u>	
<u>General</u>	<u>63,205,000</u>	<u>89,033,000</u>
<u>Federal TANF</u>	<u>100,404,000</u>	<u>85,789,000</u>

**(b) Support Services Grants**

	<u>Appropriations by Fund</u>	
<u>General</u>	<u>8,715,000</u>	<u>12,498,000</u>
<u>Federal TANF</u>	<u>121,257,000</u>	<u>102,757,000</u>

**MFIP Consolidated Fund.** The MFIP consolidated fund TANF appropriation is reduced by \$1,854,000 in fiscal year 2011 and fiscal year 2012.

Notwithstanding Minnesota Statutes, section 256J.626, subdivision 8, paragraph (b), the commissioner shall reduce proportionately the reimbursement to counties for administrative expenses.

**Subsidized Employment Funding Through ARRA.** The commissioner is authorized to apply for TANF emergency fund grants for subsidized employment activities. Growth in expenditures for subsidized employment within the supported work program and the MFIP consolidated fund over the amount expended in the calendar quarters in the TANF emergency fund base year shall be used to leverage the TANF emergency fund grants for subsidized employment and to fund supported work. The commissioner shall develop procedures to maximize reimbursement of these expenditures over the TANF emergency fund base year quarters, and may contract directly with employers and providers to maximize these TANF emergency fund grants.

**Supported Work.** Of the TANF appropriation, \$6,400,000 in fiscal year 2011 is to the commissioner for supported work for MFIP recipients and is available until expended. Supported work includes paid transitional work experience and a continuum of employment assistance, including outreach and recruitment, program orientation and intake, testing and assessment, job development and marketing, preworksite training, supported worksite experience, job

coaching, and postplacement follow-up, in addition to extensive case management and referral services.

**Base Adjustment.** The general fund base is reduced by \$3,783,000 in each of fiscal years 2012 and 2013. The TANF fund base is increased by \$9,704,000 in each of fiscal years 2012 and 2013.

**Integrated Services Program Funding.** The TANF appropriation for integrated services program funding is \$1,250,000 in fiscal year 2010 and \$2,500,000 in fiscal year 2011.

**TANF Emergency Fund; Nonrecurrent Short-Term Benefits.** TANF emergency contingency fund grants received due to increases in expenditures for nonrecurrent short-term benefits must be used to offset the increase in these expenditures for counties under the MFIP consolidated fund, under Minnesota Statutes, section 256J.626, and the diversionary work program. The commissioner shall develop procedures to maximize reimbursement of these expenditures over the TANF emergency fund base year quarters. Growth in expenditures for the diversionary work program over the amount expended in the calendar quarters in the TANF emergency fund base year shall be used to leverage these funds.

**(c) MFIP Child Care Assistance Grants**

	<u>Appropriations by Fund</u>	
<u>General</u>	<u>61,171,000</u>	<u>65,214,000</u>
<u>Federal TANF</u>	<u>1,022,000</u>	<u>406,000</u>

**ARRA Child Care Development Block Grant Funds.** The funds available from the child care development block grant under ARRA must be used for MFIP child care to the extent that those funds are not earmarked for quality expansion or to improve the quality of infant and toddler care.

**Acceleration of ARRA Child Care and**

**Development Fund Expenditure.** The commissioner must liquidate all child care and development money available under the American Recovery and Reinvestment Act (ARRA) of 2009, Public Law 111-5, by September 30, 2010. In order to expend those funds by September 30, 2010, the commissioner may redesignate and expend the ARRA child care and development funds appropriated in fiscal year 2011 for purposes under this section for related purposes that will allow liquidation by September 30, 2010. Child care and development funds otherwise available to the commissioner for those related purposes shall be used to fund the purposes from which the ARRA child care and development funds had been redesignated.

<b><u>(d) Basic Sliding Fee Child Care Assistance Grants</u></b>	<u>40,104,000</u>	<u>45,096,000</u>
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**Base Adjustment.** The general fund base is decreased by \$260,000 in each of fiscal years 2012 and 2013.

**School Readiness Service Agreements.** \$261,000 in fiscal year 2010 and \$261,000 in fiscal year 2011 are from the federal child care development funds received from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, to the commissioner of human services consistent with federal regulations for the purpose of school readiness service agreements under Minnesota Statutes, section 119B.231. This is a onetime appropriation. Any unexpended balance the first year is available in the second year.

**Child Care Development Fund Unexpended Balance.** In addition to the amount provided in this section, the commissioner shall expend \$5,244,000 in fiscal year 2010 from the federal child care development fund unexpended balance for basic sliding fee child care under Minnesota Statutes, section 119B.03. The commissioner shall ensure that all child care and development funds are



expended according to the federal child care and development fund regulations.

**Basic Sliding Fee.** \$7,045,000 in fiscal year 2010 and \$6,974,000 in fiscal year 2011 are from the federal child care development funds received from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, to the commissioner of human services consistent with federal regulations for the purpose of basic sliding fee child care assistance under Minnesota Statutes, section 119B.03. This is a onetime appropriation. Any unexpended balance the first year is available in the second year.

**Basic Sliding Fee Allocation for Calendar Year 2010.** Notwithstanding Minnesota Statutes, section 119B.03, subdivision 6, in calendar year 2010, basic sliding fee funds shall be distributed according to this provision. Funds shall be allocated first in amounts equal to each county's guaranteed floor, according to Minnesota Statutes, section 119B.03, subdivision 8, with any remaining available funds allocated according to the following formula:

(a) Up to one-fourth of the funds shall be allocated in proportion to the number of families participating in the transition year child care program as reported during and averaged over the most recent six months completed at the time of the notice of allocation. Funds in excess of the amount necessary to serve all families in this category shall be allocated according to paragraph (d).

(b) Up to three-fourths of the funds shall be allocated in proportion to the average of each county's most recent six months of reported waiting list as defined in Minnesota Statutes, section 119B.03, subdivision 2, and the reinstatement list of those families whose assistance was terminated with the approval of the commissioner under Minnesota Rules, part 3400.0183, subpart 1. Funds in excess of the amount necessary to serve all families in

this category shall be allocated according to paragraph (d).

(c) The amount necessary to serve all families in paragraphs (a) and (b) shall be calculated based on the basic sliding fee average cost of care per family in the county with the highest cost in the most recently completed calendar year.

(d) Funds in excess of the amount necessary to serve all families in paragraphs (a) and (b) shall be allocated in proportion to each county's total expenditures for the basic sliding fee child care program reported during the most recent fiscal year completed at the time of the notice of allocation. To the extent that funds are available, and notwithstanding Minnesota Statutes, section 119B.03, subdivision 8, for the period January 1, 2011, to December 31, 2011, each county's guaranteed floor must be equal to its original calendar year 2010 allocation.

**(e) Child Care Development Grants**

1,487,000

1,487,000

Family, friends, and neighbor grants. \$375,000 in fiscal year 2010 and \$375,000 in fiscal year 2011 are from the child care development fund required targeted quality funds for quality expansion and infant/toddler from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, to the commissioner of human services for family, friends, and neighbor grants under Minnesota Statutes, section 119B.232. This appropriation may be used on programs receiving family, friends, and neighbor grant funds as of June 30, 2009, or on new programs or projects. This is a onetime appropriation. Any unexpended balance the first year is available in the second year.

Voluntary quality rating system training, coaching, consultation, and supports. \$633,000 in fiscal year 2010 and \$633,000 in fiscal year 2011 are from the federal child care development fund required targeted

quality funds for quality expansion and infant/toddler from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, to the commissioner of human services consistent with federal regulations for the purpose of providing grants to provide statewide child-care provider training, coaching, consultation, and supports to prepare for the voluntary Minnesota quality rating system rating tool. This is a onetime appropriation. Any unexpended balance the first year is available in the second year.

**Voluntary quality rating system.** \$184,000 in fiscal year 2010 and \$1,200,000 in fiscal year 2011 are from the federal child care development fund required targeted funds for quality expansion and infant/toddler from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, to the commissioner of human services consistent with federal regulations for the purpose of implementing the voluntary Parent Aware quality star rating system pilot in coordination with the Minnesota Early Learning Foundation. The appropriation for the first year is to complete and promote the voluntary Parent Aware quality rating system pilot program through June 30, 2010, and the appropriation for the second year is to continue the voluntary Minnesota quality rating system pilot through June 30, 2011. This is a onetime appropriation. Any unexpended balance the first year is available in the second year.

**(f) Child Support Enforcement Grants**

3,705,000

3,705,000

**(g) Children's Services Grants**

Appropriations by Fund

<u>General</u>	<u>48,333,000</u>	<u>50,498,000</u>
<u>Federal TANF</u>	<u>340,000</u>	<u>240,000</u>

**Base Adjustment.** The general fund base is decreased by \$5,371,000 in fiscal year 2012 and increased \$8,737,000 in fiscal year 2013.

**Privatized Adoption Grants.** Federal reimbursement for privatized adoption grant and foster care recruitment grant expenditures is appropriated to the commissioner for adoption grants and foster care and adoption administrative purposes.

**Adoption Assistance Incentive Grants.** Federal funds available during fiscal year 2010 and fiscal year 2011 for the adoption incentive grants are appropriated to the commissioner for these purposes.

**Adoption Assistance and Relative Custody Assistance.** The commissioner may transfer unencumbered appropriation balances for adoption assistance and relative custody assistance between fiscal years and between programs.

**(h) Children and Community Services Grants**

67,663,000

67,542,000

**Targeted Case Management Temporary Funding Adjustment.** The commissioner shall recover from each county and tribe receiving a targeted case management temporary funding payment in fiscal year 2008 an amount equal to that payment. The commissioner shall recover one-half of the funds by February 1, 2010, and the remainder by February 1, 2011. At the commissioner's discretion and at the request of a county or tribe, the commissioner may revise the payment schedule, but full payment must not be delayed beyond May 1, 2011. The commissioner may use the recovery procedure under Minnesota Statutes, section 256.017, to recover the funds. Recovered funds must be deposited into the general fund.

**(i) General Assistance Grants**

48,215,000

48,608,000

**General Assistance Standard.** The commissioner shall set the monthly standard of assistance for general assistance units consisting of an adult recipient who is childless and unmarried or living apart from parents or a legal guardian at \$203.

The commissioner may reduce this amount according to Laws 1997, chapter 85, article 3, section 54.

**Emergency General Assistance.** The amount appropriated for emergency general assistance funds is limited to no more than \$7,889,812 in fiscal year 2010 and \$7,889,812 in fiscal year 2011. Funds to counties must be allocated by the commissioner using the allocation method specified in Minnesota Statutes, section 256D.06.

**(j) Minnesota Supplemental Aid Grants**

33,930,000

35,191,000

**Emergency Minnesota Supplemental Aid Funds.** The amount appropriated for emergency Minnesota supplemental aid funds is limited to no more than \$1,100,000 in fiscal year 2010 and \$1,100,000 in fiscal year 2011. Funds to counties must be allocated by the commissioner using the allocation method specified in Minnesota Statutes, section 256D.46.

**(k) Group Residential Housing Grants**

111,778,000

114,034,000

**Group Residential Housing Costs Refinanced.**  
(a) Effective July 1, 2011, the commissioner shall increase the home and community-based service rates and county allocations provided to programs for persons with disabilities established under section 1915(c) of the Social Security Act to the extent that these programs will be paying for the costs above the rate established in Minnesota Statutes, section 256I.05, subdivision 1.

(b) For persons receiving services under Minnesota Statutes, section 245A.02, who reside in licensed adult foster care beds for which a difficulty of care payment was being made under Minnesota Statutes, section 256I.05, subdivision 1c, paragraph (b), counties may request an exception to the individual's service authorization not to exceed the difference between the client's monthly service expenditures plus the amount

of the difficulty of care payment.

<b><u>(l) Children's Mental Health Grants</u></b>	<u>16,885,000</u>	<u>16,882,000</u>
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**Funding Usage.** Up to 75 percent of a fiscal year's appropriation for children's mental health grants may be used to fund allocations in that portion of the fiscal year ending December 31.

<b><u>(m) Other Children and Economic Assistance Grants</u></b>	<u>16,047,000</u>	<u>15,339,000</u>
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**Fraud Prevention Grants.** Of this appropriation, \$379,000 in fiscal year 2010 and \$379,000 in fiscal year 2011 is to the commissioner for fraud prevention grants to counties.

**Homeless and Runaway Youth.** \$218,000 in fiscal year 2010 is for the Runaway and Homeless Youth Act under Minnesota Statutes, section 256K.45. Funds shall be spent in each area of the continuum of care to ensure that programs are meeting the greatest need. Any unexpended balance in the first year is available in the second year. Beginning July 1, 2011, the base is increased by \$119,000 each year.

**ARRA Homeless Youth Funds.** To the extent permitted under federal law, the commissioner shall designate \$2,500,000 of the Homeless Prevention and Rapid Re-Housing Program funds provided under the American Recovery and Reinvestment Act of 2009, Public Law 111-5, for agencies providing homelessness prevention and rapid rehousing services to youth.

**Supportive Housing Services.** \$1,500,000 each year is for supportive services under Minnesota Statutes, section 256K.26. This is a onetime appropriation. Beginning in fiscal year 2012, the base is increased by \$68,000 per year.

**Community Action Grants.** Community action grants are reduced one time by

\$1,764,000 each year. This reduction is due to the availability of federal funds under the American Recovery and Reinvestment Act.

**Base Adjustment.** The general fund base is increased by \$773,000 in fiscal year 2012 and \$773,000 in fiscal year 2013.

**Federal ARRA Funds for Existing Programs.**

(a) Federal funds received by the commissioner for the emergency food and shelter program from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, but not previously approved by the legislature are appropriated to the commissioner for the purposes of the grant program.

(b) Federal funds received by the commissioner for the emergency shelter grant program including the Homelessness Prevention and Rapid Re-Housing Program from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, are appropriated to the commissioner for the purposes of the grant programs.

(c) Federal funds received by the commissioner for the emergency food assistance program from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, are appropriated to the commissioner for the purposes of the grant program.

(d) Federal funds received by the commissioner for senior congregate meals and senior home-delivered meals from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, are appropriated to the commissioner for the Minnesota Board on Aging, for purposes of the grant programs.

(e) Federal funds received by the commissioner for the community services block grant program from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, are appropriated to the commissioner for the purposes of the grant

program.

**Long-Term Homeless Supportive Service Fund Appropriation.** To the extent permitted under federal law, the commissioner shall designate \$3,000,000 of the Homelessness Prevention and Rapid Re-Housing Program funds provided under the American Recovery and Reinvestment Act of 2009, Public Law, 111-5, to the long-term homeless service fund under Minnesota Statutes, section 256K.26. This appropriation shall become available by July 1, 2009. This paragraph is effective the day following final enactment.

**Subd. 5. Children and Economic Assistance Management**

The amounts that may be spent from the appropriation for each purpose are as follows:

**(a) Children and Economic Assistance Administration**

	<u>Appropriations by Fund</u>	
<u>General</u>	<u>10,318,000</u>	<u>10,308,000</u>
<u>Federal TANF</u>	<u>496,000</u>	<u>496,000</u>

**Base Adjustment.** The federal TANF base is increased by \$700,000 in each of fiscal years 2012 and 2013.

**School Readiness Service Agreements.** \$406,000 in fiscal year 2010 and \$406,000 in fiscal year 2011 are from the federal child care development funds received from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, to the commissioner of human services consistent with federal regulations for the purpose of school readiness service agreements under Minnesota Statutes, section 119B.231. This is a onetime appropriation. Any unexpended balance the first year is available in the second year.

**(b) Children and Economic Assistance Operations**



<u>Appropriations by Fund</u>		
<u>General</u>	<u>33,590,000</u>	<u>33,423,000</u>
<u>Health Care Access</u>	<u>361,000</u>	<u>361,000</u>

**Financial Institution Data Match and Payment of Fees.** The commissioner is authorized to allocate up to \$310,000 each year in fiscal years 2010 and 2011 from the PRISM special revenue account to make payments to financial institutions in exchange for performing data matches between account information held by financial institutions and the public authority's database of child support obligors as authorized by Minnesota Statutes, section 13B.06, subdivision 7.

**School Readiness Service Agreements.** \$106,000 in fiscal year 2010 and \$241,000 in fiscal year 2011 are from the federal child care development funds received from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, to the commissioner of human services consistent with federal regulations for the purpose of school readiness service agreements under Minnesota Statutes, section 119B.231. This is a onetime appropriation.

**Use of Federal Stabilization Funds.** \$33,000,000 in fiscal year 2010 is appropriated from the fiscal stabilization account in the federal fund to the commissioner. This appropriation must not be used for any activity or service for which federal reimbursement is claimed. This is a onetime appropriation.

**Subd. 6. Basic Health Care Grants**

The amounts that may be spent from this appropriation for each purpose are as follows:

<b><u>(a) MinnesotaCare Grants</u></b>	<u>391,915,000</u>	<u>485,448,000</u>
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This appropriation is from the health care access fund.

**(b) MA Basic Health Care Grants - Families and Children**

751,988,000

973,088,000

**Medical Education Research Costs (MERC).**

Of these funds, the commissioner of human services shall transfer \$38,000,000 in fiscal year 2010 to the medical education research fund. These funds must restore the fiscal year 2009 unallotment of the transfers under Minnesota Statutes, section 256B.69, subdivision 5c, paragraph (a), for the July 1, 2008, through June 30, 2009, period.

**Newborn Screening Fee.** Of the general fund appropriation, \$34,000 in fiscal year 2011 is to the commissioner for the hospital reimbursement increase described under Minnesota Statutes, section 256.969, subdivision 28.

**Local Share Payment Modification Required for ARRA Compliance.** Effective from July 1, 2009, to December 31, 2010, Hennepin County's monthly contribution to the nonfederal share of medical assistance costs must be reduced to the percentage required on September 1, 2008, to meet federal requirements for enhanced federal match under the American Reinvestment and Recovery Act (ARRA) of 2009. Notwithstanding the requirements of Minnesota Statutes, section 256B.19, subdivision 1c, paragraph (d), for the period beginning July 1, 2009, to December 31, 2010, Hennepin County's monthly payment under that provision is reduced to \$434,688.

**Capitation Payments.** Effective from July 1, 2009, to December 31, 2010, notwithstanding the provisions of Minnesota Statutes 2008, section 256B.19, subdivision 1c, paragraph (c), the commissioner shall increase capitation payments made to the Metropolitan Health Plan under Minnesota Statutes 2008, section 256B.69, by \$6,800,000 to recognize higher than average medical education costs. The increased amount includes federal matching funds.

Use of Savings. Any savings derived from implementation of the prohibition in Minnesota Statutes, section 256B.032, on the enrollment of low-quality, high-cost health care providers as vendors of state health care program services shall be used to offset on a pro rata basis the reimbursement reductions for basic care services in Minnesota Statutes, section 256B.766.

**(c) MA Basic Health Care Grants - Elderly and Disabled**

970,183,000

1,142,310,000

**Minnesota Disability Health Options.** Notwithstanding Minnesota Statutes, section 256B.69, subdivision 5a, paragraph (b), for the period beginning July 1, 2009, to June 30, 2011, the monthly enrollment of persons receiving home and community-based waived services under Minnesota Disability Health Options shall not exceed 1,000. If the budget neutrality provision in Minnesota Statutes, section 256B.69, subdivision 23, paragraph (f), is reached prior to June 30, 2013, the commissioner may waive this monthly enrollment requirement.

**Hospital Fee-for-Service Payment Delay.** Payments from the Medicaid Management Information System that would otherwise have been made for inpatient hospital services for Minnesota health care program enrollees must be delayed as follows: for fiscal year 2011, payments in the month of June equal to \$15,937,000 must be included in the first payment of fiscal year 2012 and for fiscal year 2013, payments in the month of June equal to \$6,666,000 must be included in the first payment of fiscal year 2014. The provisions of Minnesota Statutes, section 16A.124, do not apply to these delayed payments. Notwithstanding any contrary provision in this article, this paragraph expires December 31, 2014.

**Nonhospital Fee-for-Service Payment Delay.** Payments from the Medicaid Management Information System that would otherwise

have been made for nonhospital acute care services for Minnesota health care program enrollees must be delayed as follows: payments in the month of June equal to \$23,438,000 for fiscal year 2011 must be included in the first payment for fiscal year 2012, and payments in the month of June equal to \$27,156,000 for fiscal year 2013 must be included in the first payment for fiscal year 2014. This payment delay must not include nursing facilities, intermediate care facilities for persons with developmental disabilities, home and community-based services, prepaid health plans, personal care provider organizations, and home health agencies. The provisions of Minnesota Statutes, section 16A.124, do not apply to these delayed payments. Notwithstanding any contrary provision in this article, this paragraph expires December 31, 2014.

<b><u>(d) General Assistance Medical Care Grants</u></b>	<u>345,223,000</u>	<u>381,081,000</u>
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**(e) Other Health Care Grants**

	<u>Appropriations by Fund</u>	
<u>General</u>	<u>295,000</u>	<u>295,000</u>
<u>Health Care Access</u>	<u>23,533,000</u>	<u>7,080,000</u>

**Base Adjustment.** The health care access fund base is reduced to \$190,000 in each of fiscal years 2012 and 2013.

**Subd. 7. Health Care Management**

The amounts that may be spent from the appropriation for each purpose are as follows:

**(a) Health Care Administration**

	<u>Appropriations by Fund</u>	
<u>General</u>	<u>7,831,000</u>	<u>7,742,000</u>
<u>Health Care Access</u>	<u>1,812,000</u>	<u>906,000</u>

**(b) Health Care Operations**

Appropriations by Fund

<u>General</u>	<u>19,914,000</u>	<u>18,949,000</u>
<u>Health Care Access</u>	<u>25,099,000</u>	<u>25,875,000</u>

**Base Adjustment.** The health care access fund base is increased by \$1,006,000 in fiscal year 2012 and \$1,781,000 in fiscal year 2013. The general fund base is decreased by \$237,000 in fiscal year 2012 and \$237,000 in fiscal year 2013.

Subd. 8. Continuing Care Grants

The amounts that may be spent from the appropriation for each purpose are as follows:

(a) Aging and Adult Services GrantsAppropriations by Fund

<u>General</u>	<u>13,488,000</u>	<u>15,779,000</u>
<u>Federal</u>	<u>500,000</u>	<u>0</u>

**Base Adjustment.** The general fund base is increased by \$5,751,000 in fiscal year 2012 and \$6,705,000 in fiscal year 2013.

**Information and Assistance Reimbursement.**

Federal administrative reimbursement obtained from information and assistance services provided by the Senior LinkAge or Disability Linkage lines to people who are identified as eligible for medical assistance shall be appropriated to the commissioner for this activity.

**Community Service Development Grant**

**Reduction.** Funding for community service development grants must be reduced by \$251,000 for fiscal year 2010; \$266,000 in fiscal year 2011; \$25,000 in fiscal year 2012; and \$25,000 in fiscal year 2013. Base level funding shall be restored in fiscal year 2014.

**Senior Nutrition Use of Federal Funds.**

For fiscal year 2010, general fund grants for home-delivered meals and congregate dining shall be reduced by \$500,000. The

commissioner must replace these general fund reductions with equal amounts from federal funding for senior nutrition from the American Recovery and Reinvestment Act of 2009.

**(b) Alternative Care Grants**

50,234,000

48,576,000

**Base Adjustment.** The general fund base is decreased by \$3,598,000 in fiscal year 2012 and \$3,470,000 in fiscal year 2013.

**Alternative Care Transfer.** Any money allocated to the alternative care program that is not spent for the purposes indicated does not cancel but must be transferred to the medical assistance account.

**(c) Medical Assistance Grants; Long-Term Care Facilities.**

367,444,000

419,749,000

**(d) Medical Assistance Long-Term Care Waivers and Home Care Grants**

854,373,000

1,043,411,000

**Manage Growth in TBI and CADI Waivers.** During the fiscal years beginning on July 1, 2009, and July 1, 2010, the commissioner shall allocate money for home and community-based waiver programs under Minnesota Statutes, section 256B.49, to ensure a reduction in state spending that is equivalent to limiting the caseload growth of the TBI waiver to 12.5 allocations per month each year of the biennium and the CADI waiver to 95 allocations per month each year of the biennium. Limits do not apply: (1) when there is an approved plan for nursing facility bed closures for individuals under age 65 who require relocation due to the bed closure; (2) to fiscal year 2009 waiver allocations delayed due to unallotment; or (3) to transfers authorized by the commissioner from the personal care assistance program of individuals having a home care rating of "CS," "MT," or "HL." Priorities for the allocation of funds must be for individuals anticipated to be discharged from institutional settings or who are at imminent risk of a

placement in an institutional setting.

**Manage Growth in DD Waiver.** The commissioner shall manage the growth in the DD waiver by limiting the allocations included in the February 2009 forecast to 15 additional diversion allocations each month for the calendar years that begin on January 1, 2010, and January 1, 2011. Additional allocations must be made available for transfers authorized by the commissioner from the personal care program of individuals having a home care rating of "CS," "MT," or "HL."

**Adjustment to Lead Agency Waiver Allocations.** Prior to the availability of the alternative license defined in Minnesota Statutes, section 245A.11, subdivision 8, the commissioner shall reduce lead agency waiver allocations for the purposes of implementing a moratorium on corporate foster care.

**Alternatives to Personal Care Assistance Services.** Base level funding of \$3,237,000 in fiscal year 2012 and \$4,856,000 in fiscal year 2013 is to implement alternative services to personal care assistance services for persons with mental health and other behavioral challenges who can benefit from other services that more appropriately meet their needs and assist them in living independently in the community. These services may include, but not be limited to, a 1915(i) state plan option.

**(e) Mental Health Grants**

	<u>Appropriations by Fund</u>	
<u>General</u>	<u>77,739,000</u>	<u>77,739,000</u>
<u>Health Care Access</u>	<u>750,000</u>	<u>750,000</u>
<u>Lottery Prize</u>	<u>1,508,000</u>	<u>1,508,000</u>

**Funding Usage.** Up to 75 percent of a fiscal year's appropriation for adult mental health grants may be used to fund allocations in that

portion of the fiscal year ending December 31.

<b><u>(f) Deaf and Hard-of-Hearing Grants</u></b>	<u>1,930,000</u>	<u>1,917,000</u>
<b><u>(g) Chemical Dependency Entitlement Grants</u></b>	<u>111,303,000</u>	<u>122,822,000</u>

**Payments for Substance Abuse Treatment.**

For services provided during fiscal years 2010 and 2011, county-negotiated rates and provider claims to the consolidated chemical dependency fund must not exceed rates charged for these services on January 1, 2009. For services provided in fiscal years 2012 and 2013, statewide average rates under the new rate methodology to be developed under Minnesota Statutes, section 254B.12, must not exceed the average rates charged for these services on January 1, 2009, plus \$3,787,000 for fiscal year 2012 and \$5,023,000 for fiscal year 2013. Notwithstanding any provision to the contrary in this article, this provision expires on June 30, 2013.

**Chemical Dependency Special Revenue Account.** For fiscal year 2010, \$750,000 must be transferred from the consolidated chemical dependency treatment fund administrative account and deposited into the general fund.

**County CD Share of MA Costs for ARRA Compliance.** Notwithstanding the provisions of Minnesota Statutes, chapter 254B, for chemical dependency services provided during the period July 1, 2009, to December 31, 2010, and reimbursed by medical assistance at the enhanced federal matching rate provided under the American Recovery and Reinvestment Act of 2009, the county share is 30 percent of the nonfederal share.

<b><u>(h) Chemical Dependency Nonentitlement Grants</u></b>	<u>1,729,000</u>	<u>1,729,000</u>
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**Base Adjustment.** The general fund base is decreased by \$3,000 in each of fiscal years 2012 and 2013.

<b><u>(i) Other Continuing Care Grants</u></b>	<u>18,272,000</u>	<u>13,139,000</u>
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**Base Adjustment.** The general fund base is



increased by \$7,028,000 in fiscal year 2012 and increased by \$8,243,000 in fiscal year 2013.

**Technology Grants.** \$650,000 in fiscal year 2010 and \$1,000,000 in fiscal year 2011 are for technology grants, case consultation, evaluation, and consumer information grants related to developing and supporting alternatives to shift-staff foster care residential service models.

**Other Continuing Care Grants; HIV Grants.** Money appropriated for the HIV drug and insurance grant program in fiscal year 2010 may be used in either year of the biennium.

**Subd. 9. Continuing Care Management**

	<u>Appropriations by Fund</u>	
<u>General</u>	<u>24,927,000</u>	<u>25,314,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>875,000</u>	<u>125,000</u>
<u>Lottery Prize</u>	<u>157,000</u>	<u>157,000</u>

**Quality Assurance Commission.** Effective July 1, 2009, state funding for the quality assurance commission under Minnesota Statutes, section 256B.0951, is canceled.

**County Maintenance of Effort.** \$350,000 in fiscal year 2010 is from the general fund for the State-County Results Accountability and Service Delivery Reform under Minnesota Statutes, chapter 402A.

**Base Adjustment.** The general fund base is decreased \$2,697,000 in fiscal year 2012 and \$2,791,000 in fiscal year 2013.

**Subd. 10. State-Operated Services**

258,794,000

266,191,000

The amounts that may be spent from the appropriation for each purpose are as follows:

**Transfer Authority Related to State-Operated Services.** Money appropriated to finance state-operated services may be transferred

between the fiscal years of the biennium with the approval of the commissioner of finance.

**County Past Due Receivables.** The commissioner is authorized to withhold county federal administrative reimbursement when the county of financial responsibility for cost-of-care payments due the state under Minnesota Statutes, section 246.54 or 253B.045, is 90 days past due. The commissioner shall deposit the withheld federal administrative earnings for the county into the general fund to settle the claims with the county of financial responsibility. The process for withholding funds is governed by Minnesota Statutes, section 256.017.

**Forecast and Census Data.** The commissioner shall include census data and fiscal projections for state-operated services and Minnesota sex offender services with the November and February budget forecasts. Notwithstanding any contrary provision in this article, this paragraph shall not expire.

**(a) Adult Mental Health Services**

107,702,000

107,201,000

**Appropriation Limitation.** No part of the appropriation in this article to the commissioner for mental health treatment services provided by state-operated services shall be used for the Minnesota sex offender program.

**Community Behavioral Health Hospitals.** Under Minnesota Statutes, section 246.51, subdivision 1, a determination order for the clients served in a community behavioral health hospital operated by the commissioner of human services is only required when a client's third-party coverage has been exhausted.

**Base Adjustment.** The general fund base is decreased by \$500,000 for fiscal year 2012 and by \$500,000 for fiscal year 2013.

**(b) Minnesota Sex Offender Services**



	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>69,366,000</u>	<u>63,884,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>45,415,000</u>	<u>45,415,000</u>
<u>Health Care Access</u>	<u>39,203,000</u>	<u>40,809,000</u>
<u>Federal TANF</u>	<u>11,733,000</u>	<u>11,733,000</u>

**Subd. 2. Community and Family Health Promotion**

	<u>Appropriations by Fund</u>	
<u>General</u>	<u>44,814,000</u>	<u>39,671,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>1,033,000</u>	<u>1,304,000</u>
<u>Federal TANF</u>	<u>11,733,000</u>	<u>11,733,000</u>
<u>Health Care Access</u>	<u>21,642,000</u>	<u>28,719,000</u>

**Newborn Screening Fee.** Of the general fund appropriation, \$300,000 in fiscal year 2011 is to the commissioner for the purpose of providing support services to families as required under Minnesota Statutes, section 144.966, subdivision 3a. \$74,000 of this appropriation in fiscal year 2011 and \$51,000 of this appropriation in subsequent fiscal years may be used by the commissioner for administrative costs associated with increasing the fee, contract administration, program oversight, and provide follow-up to families who need assistance beyond those available through the contractor.

**Support Services for Families With Children Who are Deaf or Have Hearing Loss.** Of the general fund amount, \$16,000 in fiscal year 2010 and \$284,000 in fiscal year 2011 is for support services to families with children who are deaf or have hearing loss. Of this amount, in fiscal year 2011, \$223,000 is for grants and the balance is for administrative costs. Base funding in fiscal years 2012 and 2013 is \$300,000 each year. Of this amount, \$241,000 each year is for grants and the balance is for administrative costs.

**Funding Usage.** Up to 75 percent of the fiscal year 2012 appropriation for local public health grants may be used to fund calendar year 2011 allocations for this program. The general fund reduction of \$5,193,000 in fiscal year 2011 for local public health grants is onetime and the base funding for local public health grants for fiscal year 2012 is increased by \$5,193,000.

**Colorectal Screening.** \$88,000 in fiscal year 2010 and \$62,000 in fiscal year 2011 are for grants to the Hennepin County Medical Center and MeritCare Bemidji for colorectal screening demonstration projects.

**Feasibility Pilot Project for Cancer Surveillance.** Of the general fund appropriation for fiscal year 2010, \$100,000 is to the commissioner to provide grant funding to cover the cost of one full-time equivalent position at the Hennepin County Medical Center to carry out the feasibility pilot project.

**American Recovery and Reinvestment Act Funds.** Federal funds received by the commissioner for WIC program management information systems from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, are appropriated to the commissioner for the purpose of the grant.

**TANF Appropriations.** (1) \$1,156,000 of the TANF funds are appropriated each year to the commissioner for family planning grants under Minnesota Statutes, section 145.925.

(2) \$3,579,000 of the TANF funds are appropriated each year to the commissioner for home visiting and nutritional services listed under Minnesota Statutes, section 145.882, subdivision 7, clauses (6) and (7). Funds must be distributed to community health boards according to Minnesota Statutes, section 145A.131, subdivision 1.

(3) \$2,000,000 of the TANF funds are appropriated each year to the commissioner

for decreasing racial and ethnic disparities in infant mortality rates under Minnesota Statutes, section 145.928, subdivision 7.

(4) \$4,998,000 of the TANF funds are appropriated each year to the commissioner for the family home visiting grant program according to Minnesota Statutes, section 145A.17. \$4,000,000 of the funding must be distributed to community health boards according to Minnesota Statutes, section 145A.131, subdivision 1. \$998,000 of the funding must be distributed to tribal governments based on Minnesota Statutes, section 145A.14, subdivision 2a. The commissioner may use five percent of the funds appropriated each fiscal year to conduct the ongoing evaluations required under Minnesota Statutes, section 145A.17, subdivision 7, and may use ten percent of the funds appropriated each fiscal year to provide training and technical assistance as required under Minnesota Statutes, section 145A.17, subdivisions 4 and 5.

**Base Adjustment.** The general fund base is increased by \$10,302,000 for fiscal year 2012 and increased by \$5,109,000 for fiscal year 2013. The health care access fund base is reduced to \$1,719,000 for both fiscal years 2012 and 2013.

**TANF Carryforward.** Any unexpended balance of the TANF appropriation in the first year of the biennium does not cancel but is available for the second year.

**Subd. 3. Policy Quality and Compliance**

	<u>Appropriations by Fund</u>	
<u>General</u>	<u>7,491,000</u>	<u>7,242,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>14,173,000</u>	<u>14,173,000</u>
<u>Health Care Access</u>	<u>17,561,000</u>	<u>12,090,000</u>

**Community-Based Health Care Demonstration Project.** Notwithstanding the provisions

of Laws 2007, chapter 147, article 19, section 3, subdivision 6, paragraph (e), base level funding to the commissioner for the demonstration project grant described in Minnesota Statutes, section 62Q.80, subdivision 1a, shall be zero for fiscal years 2011 and 2012.

**Medical Education and Research Cost Federal Compliance.** Notwithstanding Laws 2008, chapter 363, article 18, section 4, subdivision 3, the base level funding for the commissioner to distribute to the Mayo Clinic for transitional funding while federal compliance changes are made to the medical education and research cost funding distribution formula shall be \$0 for fiscal years 2010 and 2011.

**Autism Clinical Research.** The commissioner, in partnership with a Minnesota research institution, shall apply for funds available for research grants under the American Recovery and Reinvestment Act (ARRA) of 2009 in order to expand research and treatment of autism spectrum disorders.

**Health Information Technology.** (a) Of the health care access fund appropriation, \$4,000,000 is to fund the revolving loan account under Minnesota Statutes, section 62J.496. This appropriation must not be expended unless it is matched with federal funding under the federal Health Information Technology for Economic and Clinical Health (HITECH) Act. This appropriation must not be included in the agency's base budget for the fiscal year beginning July 1, 2012.

(b) On or before June 30, 2013, \$1,200,000 shall be transferred from the revolving loan account under Minnesota Statutes, section 62J.496, to the health care access fund. This is a onetime transfer and must not be included in the agency's base budget for the fiscal year beginning July 1, 2014.

**Base Adjustment.** The general fund base is \$8,243,000 in fiscal year 2012 and \$8,243,000

in fiscal year 2013. The health care access fund base is \$10,950,000 in fiscal year 2012 and \$6,816,000 in fiscal year 2013.

**Subd. 4. Health Protection**

	<u>Appropriations by Fund</u>	
<u>General</u>	<u>9,871,000</u>	<u>9,780,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>30,209,000</u>	<u>30,209,000</u>

**Base Adjustment.** The general fund base is reduced by \$50,000 in each of fiscal years 2012 and 2013.

**Health Protection Appropriations.** (a) \$163,000 each year is for the lead abatement grant program.

(b) \$100,000 each year is for emergency preparedness and response activities.

(c) \$50,000 each year is for tuberculosis prevention and control. This is a onetime appropriation.

**American Recovery and Reinvestment Act Funds.** Federal funds received by the commissioner for immunization operations from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, are appropriated to the commissioner for the purposes of the grant.

<b>Subd. 5. <u>Administrative Support Services</u></b>	<u>7,190,000</u>	<u>7,190,000</u>
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**Sec. 5. HEALTH-RELATED BOARDS**

<b>Subdivision 1. <u>Total Appropriation</u></b>	<b>\$</b>	<b><u>15,017,000</u></b>	<b>\$</b>	<b><u>14,831,000</u></b>
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This appropriation is from the state government special revenue fund.

**Transfer.** In fiscal year 2010, \$6,000,000 shall be transferred from the state government special revenue fund to the general fund.

The amounts that may be spent for each purpose are specified in the following



subdivisions.

Subd. 2. <u>Board of Chiropractic Examiners</u>	<u>447,000</u>	<u>447,000</u>
Subd. 3. <u>Board of Dentistry</u>	<u>1,009,000</u>	<u>1,009,000</u>
Subd. 4. <u>Board of Dietetic and Nutrition Practice</u>	<u>105,000</u>	<u>105,000</u>
Subd. 5. <u>Board of Marriage and Family Therapy</u>	<u>137,000</u>	<u>137,000</u>
Subd. 6. <u>Board of Medical Practice</u>	<u>3,674,000</u>	<u>3,674,000</u>
Subd. 7. <u>Board of Nursing</u>	<u>4,217,000</u>	<u>4,219,000</u>
Subd. 8. <u>Board of Nursing Home Administrators</u>	<u>1,146,000</u>	<u>958,000</u>

Administrative Services Unit - Operating Costs. Of this appropriation, \$524,000 in fiscal year 2010 and \$526,000 in fiscal year 2011 are for operating costs of the administrative services unit. The administrative services unit may receive and expend reimbursements for services performed by other agencies.

Administrative Services Unit - Retirement Costs. Of this appropriation in fiscal year 2010, \$201,000 is for onetime retirement costs in the health-related boards. This funding may be transferred to the health boards incurring those costs for their payment. These funds are available either year of the biennium.

Administrative Services Unit - Volunteer Health Care Provider Program. Of this appropriation, \$79,000 in fiscal year 2010 and \$89,000 in fiscal year 2011 are to pay for medical professional liability coverage required under Minnesota Statutes, section 214.40.

Administrative Services Unit - Contested Cases and Other Legal Proceedings. Of this appropriation, \$200,000 in fiscal year 2010 and \$200,000 in fiscal year 2011 are for costs of contested case hearings and other unanticipated costs of legal proceedings

involving health-related boards funded under this section. Upon certification of a health-related board to the administrative services unit that the costs will be incurred and that there is insufficient money available to pay for the costs out of money currently available to that board, the administrative services unit is authorized to transfer money from this appropriation to the board for payment of those costs with the approval of the commissioner of finance. This appropriation does not cancel. Any unencumbered and unspent balances remain available for these expenditures in subsequent fiscal years.

<u>Subd. 9. Board of Optometry</u>	<u>101,000</u>	<u>101,000</u>
<u>Subd. 10. Board of Pharmacy</u>	<u>1,413,000</u>	<u>1,413,000</u>
<u>Subd. 11. Board of Physical Therapy</u>	<u>295,000</u>	<u>295,000</u>
<u>Subd. 12. Board of Podiatry</u>	<u>56,000</u>	<u>56,000</u>
<u>Subd. 13. Board of Psychology</u>	<u>806,000</u>	<u>806,000</u>
<u>Subd. 14. Board of Social Work</u>	<u>1,022,000</u>	<u>1,022,000</u>
<u>Subd. 15. Board of Veterinary Medicine</u>	<u>195,000</u>	<u>195,000</u>
<u>Subd. 16. Board of Behavioral Health and Therapy</u>	<u>394,000</u>	<u>394,000</u>
<b><u>Sec. 6. EMERGENCY MEDICAL SERVICES BOARD</u></b>	<b><u>\$ 4,378,000</u></b>	<b><u>\$ 3,828,000</u></b>

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>3,674,000</u>	<u>3,124,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>704,000</u>	<u>704,000</u>

Longevity Award and Incentive Program. Of the general fund appropriation, \$700,000 in fiscal year 2010 and \$700,000 in fiscal year 2011 are to the board for the Cooper/Sams volunteer ambulance program, under

Minnesota Statutes, section 144E.40.

**Transfer.** In fiscal year 2010, \$6,182,000 is transferred from the Cooper/Sams volunteer ambulance trust, established under Minnesota Statutes, section 144E.42, to the general fund.

**Health Professional Services Program.** \$704,000 in fiscal year 2010 and \$704,000 in fiscal year 2011 from the state government special revenue fund are for the health professional services program.

**Comprehensive Advanced Life-Support Educational (CALs) Program.** \$100,000 in the first year from the Cooper/Sams volunteer ambulance trust is for the comprehensive advanced life-support educational (CALs) program established under Minnesota Statutes, section 144E.37. This appropriation is to extend availability and affordability of the CALs program for rural emergency medical personnel and to assist hospital staff in attaining the credentialing levels necessary for implementation of the statewide trauma system.

Sec. 7. <u>DEPARTMENT OF VETERANS AFFAIRS</u>	<u>\$</u>	<u>200,000</u>	<u>\$</u>	<u>0</u>
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**Veterans Paramedic Apprenticeship Program.** Of this appropriation, \$200,000 in the first year is from the Cooper/Sams volunteer ambulance trust for transfer to the commissioner of veterans affairs for a grant to the Minnesota Ambulance Association to implement a veterans paramedic apprenticeship program to reintegrate returning military medics into Minnesota's workforce in the field of paramedic and emergency services, thereby guaranteeing returning military medics gainful employment with livable wages and benefits. This appropriation is available until expended.

Sec. 8. <u>DEPARTMENT OF PUBLIC SAFETY</u>	<u>\$</u>	<u>250,000</u>	<u>\$</u>	<u>0</u>
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**Medical Response Unit Reimbursement Pilot Program.** (a) \$250,000 in the first year is

from the Cooper/Sams volunteer ambulance trust for a transfer to the Department of Public Safety for a medical response unit reimbursement pilot program. Of this appropriation, \$75,000 is for administrative costs to the Department of Public Safety, including providing contract staff support and technical assistance to the pilot program partners if necessary.

(b) Of the amount in paragraph (a), \$175,000 is to be used to provide a predetermined reimbursement amount to the participating medical response units. The Department of Public Safety or its contract designee will develop an agreement with the medical response units outlining reimbursement and program requirements to include HIPAA compliance while participating in the pilot program.

Sec. 9. <u>COUNCIL ON DISABILITY</u>	\$	<u>524,000</u>	\$	<u>524,000</u>
Sec. 10. <u>OMBUDSMAN FOR MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES</u>	\$	<u>1,655,000</u>	\$	<u>1,655,000</u>
Sec. 11. <u>OMBUDSPERSON FOR FAMILIES</u>	\$	<u>265,000</u>	\$	<u>265,000</u>

Sec. 12. Laws 2007, chapter 147, article 19, section 3, subdivision 4, as amended by Laws 2008, chapter 277, article 5, section 1; and Laws 2008, chapter 363, article 18, section 7, is amended to read:

**Subd. 4. Children and Economic Assistance Grants**

The amounts that may be spent from this appropriation for each purpose are as follows:

**(a) MFIP/DWP Grants**

Appropriations by Fund		
General	62,069,000	62,405,000
Federal TANF	75,904,000	80,841,000

**(b) Support Services Grants**

Appropriations by Fund		
General	8,715,000	8,715,000

Federal TANF	113,429,000	115,902,000
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**TANF Prior Appropriation Cancellation.**

Notwithstanding Laws 2001, First Special Session chapter 9, article 17, section 2, subdivision 11, paragraph (b), any unexpended TANF funds appropriated to the commissioner to contract with the Board of Trustees of Minnesota State Colleges and Universities, to provide tuition waivers to employees of health care and human service providers that are members of qualifying consortia operating under Minnesota Statutes, sections 116L.10 to 116L.15, must cancel at the end of fiscal year 2007.

**MFIP Pilot Program.** Of the TANF appropriation, \$100,000 in fiscal year 2008 and \$750,000 in fiscal year 2009 are for a grant to the Stearns-Benton Employment and Training Council for the Workforce U pilot program. Base level funding for this program shall be \$750,000 in 2010 and \$0 in 2011.

**Supported Work.** (1) Of the TANF appropriation, \$5,468,000 in fiscal year 2008 is for supported work for MFIP participants, to be allocated to counties and tribes based on the criteria under clauses (2) and (3), and is available until expended. Paid transitional work experience and other supported employment under this rider provides a continuum of employment assistance, including outreach and recruitment, program orientation and intake, testing and assessment, job development and marketing, preworksite training, supported worksite experience, job coaching, and postplacement follow-up, in addition to extensive case management and referral services. \* **(The preceding text "and \$7,291,000 in fiscal year 2009" was indicated as vetoed by the governor.)**

(2) A county or tribe is eligible to receive an allocation under this rider if:

(i) the county or tribe is not meeting the

federal work participation rate;

(ii) the county or tribe has participants who are required to perform work activities under Minnesota Statutes, chapter 256J, but are not meeting hourly work requirements; and

(iii) the county or tribe has assessed participants who have completed six weeks of job search or are required to perform work activities and are not meeting the hourly requirements, and the county or tribe has determined that the participant would benefit from working in a supported work environment.

(3) A county or tribe may also be eligible for funds in order to contract for supplemental hours of paid work at the participant's child's place of education, child care location, or the child's physical or mental health treatment facility or office. This grant to counties and tribes is specifically for MFIP participants who need to work up to five hours more per week in order to meet the hourly work requirement, and the participant's employer cannot or will not offer more hours to the participant.

**Work Study.** Of the TANF appropriation, \$750,000 each year are to the commissioner to contract with the Minnesota Office of Higher Education for the biennium beginning July 1, 2007, for work study grants under Minnesota Statutes, section 136A.233, specifically for low-income individuals who receive assistance under Minnesota Statutes, chapter 256J, and for grants to opportunities industrialization centers. \* **(The preceding text beginning "Work Study. Of the TANF appropriation," was indicated as vetoed by the governor.)**

**Integrated Service Projects.** \$2,500,000 in fiscal year 2008 and \$2,500,000 in fiscal year 2009 are appropriated from the TANF fund to the commissioner to continue to fund the existing integrated services projects for MFIP families, and if funding allows, additional

similar projects.

**Base Adjustment.** The TANF base for fiscal year 2010 is \$115,902,000 and for fiscal year 2011 is \$115,152,000.

**(c) MFIP Child Care Assistance Grants**

General	74,654,000	71,951,000
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**(d) Basic Sliding Fee Child Care Assistance Grants**

General	42,995,000	45,008,000
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**Base Adjustment.** The general fund base is \$44,881,000 for fiscal year 2010 and \$44,852,000 for fiscal year 2011.

**At-Home Infant Care Program.** No funding shall be allocated to or spent on the at-home infant care program under Minnesota Statutes, section 119B.035.

**(e) Child Care Development Grants**

General	4,390,000	6,390,000
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**Prekindergarten Exploratory Projects.** Of the general fund appropriation, \$2,000,000 the first year and \$4,000,000 the second year are for grants to the city of St. Paul, Hennepin County, and Blue Earth County to establish scholarship demonstration projects to be conducted in partnership with the Minnesota Early Learning Foundation to promote children's school readiness. This appropriation is available until June 30, 2009.

**Child Care Services Grants.** Of this appropriation, \$250,000 each year are for the purpose of providing child care services grants under Minnesota Statutes, section 119B.21, subdivision 5. This appropriation is for the 2008-2009 biennium only, and does not increase the base funding.

**Early Childhood Professional Development System.** Of this appropriation, \$250,000 each year are for purposes of the early childhood

professional development system, which increases the quality and continuum of professional development opportunities for child care practitioners. This appropriation is for the 2008-2009 biennium only, and does not increase the base funding.

**Base Adjustment.** The general fund base is \$1,515,000 for each of fiscal years 2010 and 2011.

**(f) Child Support Enforcement Grants**

General	11,038,000	3,705,000
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**Child Support Enforcement.** \$7,333,000 for fiscal year 2008 is to make grants to counties for child support enforcement programs to make up for the loss under the 2005 federal Deficit Reduction Act of federal matching funds for federal incentive funds passed on to the counties by the state.

This appropriation is available until June 30, 2009.

**(g) Children's Services Grants**

	Appropriations by Fund	
General	63,647,000	71,147,000
Health Care Access	250,000	-0-
TANF	240,000	340,000

**Grants for Programs Serving Young Parents.** Of the TANF fund appropriation, \$140,000 each year is for a grant to a program or programs that provide comprehensive services through a private, nonprofit agency to young parents in Hennepin County who have dropped out of school and are receiving public assistance. The program administrator shall report annually to the commissioner on skills development, education, job training, and job placement outcomes for program participants.

**County Allocations for Rate Increases.** County Children and Community Services Act



allocations shall be increased by \$197,000 effective October 1, 2007, and \$696,000 effective October 1, 2008, to help counties pay for the rate adjustments to day training and habilitation providers for participants paid by county social service funds. Notwithstanding the provisions of Minnesota Statutes, section 256M.40, the allocation to a county shall be based on the county's proportion of social services spending for day training and habilitation services as determined in the most recent social services expenditure and grant reconciliation report.

**Privatized Adoption Grants.** Federal reimbursement for privatized adoption grant and foster care recruitment grant expenditures is appropriated to the commissioner for adoption grants and foster care and adoption administrative purposes.

**Adoption Assistance Incentive Grants.** Federal funds available during fiscal year 2008 and fiscal year 2009 for the adoption incentive grants are appropriated to the commissioner for these purposes.

**Adoption Assistance and Relative Custody Assistance.** The commissioner may transfer unencumbered appropriation balances for adoption assistance and relative custody assistance between fiscal years and between programs.

**Children's Mental Health Grants.** Of the general fund appropriation, \$5,913,000 in fiscal year 2008 and \$6,825,000 in fiscal year 2009 are for children's mental health grants. The purpose of these grants is to increase and maintain the state's children's mental health service capacity, especially for school-based mental health services. The commissioner shall require grantees to utilize all available third party reimbursement sources as a condition of using state grant funds. At least 15 percent of these funds shall be used to encourage efficiencies through early intervention services. At least another 15

percent shall be used to provide respite care services for children with severe emotional disturbance at risk of out-of-home placement.

**Mental Health Crisis Services.** Of the general fund appropriation, \$2,528,000 in fiscal year 2008 and \$2,850,000 in fiscal year 2009 are for statewide funding of children's mental health crisis services. Providers must utilize all available funding streams.

**Children's Mental Health Evidence-Based and Best Practices.** Of the general fund appropriation, \$375,000 in fiscal year 2008 and \$750,000 in fiscal year 2009 are for children's mental health evidence-based and best practices including, but not limited to: Adolescent Integrated Dual Diagnosis Treatment services; school-based mental health services; co-location of mental health and physical health care, and; the use of technological resources to better inform diagnosis and development of treatment plan development by mental health professionals. The commissioner shall require grantees to utilize all available third-party reimbursement sources as a condition of using state grant funds.

**Culturally Specific Mental Health Treatment Grants.** Of the general fund appropriation, \$75,000 in fiscal year 2008 and \$300,000 in fiscal year 2009 are for children's mental health grants to support increased availability of mental health services for persons from cultural and ethnic minorities within the state. The commissioner shall use at least 20 percent of these funds to help members of cultural and ethnic minority communities to become qualified mental health professionals and practitioners. The commissioner shall assist grantees to meet third-party credentialing requirements and require them to utilize all available third-party reimbursement sources as a condition of using state grant funds.

**Mental Health Services for Children with Special Treatment Needs.** Of the general fund

appropriation, \$50,000 in fiscal year 2008 and \$200,000 in fiscal year 2009 are for children's mental health grants to support increased availability of mental health services for children with special treatment needs. These shall include, but not be limited to: victims of trauma, including children subjected to abuse or neglect, veterans and their families, and refugee populations; persons with complex treatment needs, such as eating disorders; and those with low incidence disorders.

**MFIP and Children's Mental Health Pilot Project.** Of the TANF appropriation, \$100,000 in fiscal year 2008 and \$200,000 in fiscal year 2009 are to fund the MFIP and children's mental health pilot project. Of these amounts, up to \$100,000 may be expended on evaluation of this pilot.

**Prenatal Alcohol or Drug Use.** Of the general fund appropriation, \$75,000 ~~each year is to award grants beginning July 1, 2007, to programs that provide services under Minnesota Statutes, section 254A.171, in Pine, Kanabec, and Carlton Counties.~~ the second year is for a grant to A Circle of Women for program services. This appropriation shall become part of the base appropriation.

**Base Adjustment.** The general fund base is \$62,572,000 in fiscal year 2010 and \$62,575,000 in fiscal year 2011.

**(h) Children and Community Services Grants**

General	101,369,000	69,208,000
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**Base Adjustment.** The general fund base is \$69,274,000 in each of fiscal years 2010 and 2011.

**Targeted Case Management Temporary Funding.** (a) Of the general fund appropriation, \$32,667,000 in fiscal year 2008 is transferred to the targeted case management contingency reserve account in the general fund to be allocated to counties

and tribes affected by reductions in targeted case management federal Medicaid revenue as a result of the provisions in the federal Deficit Reduction Act of 2005, Public Law 109-171.

(b) Contingent upon (1) publication by the federal Centers for Medicare and Medicaid Services of final regulations implementing the targeted case management provisions of the federal Deficit Reduction Act of 2005, Public Law 109-171, or (2) the issuance of a finding by the Centers for Medicare and Medicaid Services of federal Medicaid overpayments for targeted case management expenditures, up to \$32,667,000 is appropriated to the commissioner of human services. Prior to distribution of funds, the commissioner shall estimate and certify the amount by which the federal regulations or federal disallowance will reduce targeted case management Medicaid revenue over the 2008-2009 biennium.

(c) Within 60 days of a contingency described in paragraph (b), the commissioner shall distribute the grants proportionate to each affected county or tribe's targeted case management federal earnings for calendar year 2005, not to exceed the lower of (1) the amount of the estimated reduction in federal revenue or (2) \$32,667,000.

(d) These funds are available in either year of the biennium. Counties and tribes shall use these funds to pay for social service-related costs, but the funds are not subject to provisions of the Children and Community Services Act grant under Minnesota Statutes, chapter 256M.

(e) This appropriation shall be available to pay counties and tribes for expenses incurred on or after July 1, 2007. The appropriation shall be available until expended.

(i) **General Assistance Grants**

General	37,876,000	38,253,000
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**General Assistance Standard.** The commissioner shall set the monthly standard of assistance for general assistance units consisting of an adult recipient who is childless and unmarried or living apart from parents or a legal guardian at \$203. The commissioner may reduce this amount according to Laws 1997, chapter 85, article 3, section 54.

**Emergency General Assistance.** The amount appropriated for emergency general assistance funds is limited to no more than \$7,889,812 in fiscal year 2008 and \$7,889,812 in fiscal year 2009. Funds to counties must be allocated by the commissioner using the allocation method specified in Minnesota Statutes, section 256D.06.

**(j) Minnesota Supplemental Aid Grants**

General	30,505,000	30,812,000
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**Emergency Minnesota Supplemental Aid Funds.** The amount appropriated for emergency Minnesota supplemental aid funds is limited to no more than \$1,100,000 in fiscal year 2008 and \$1,100,000 in fiscal year 2009. Funds to counties must be allocated by the commissioner using the allocation method specified in Minnesota Statutes, section 256D.46.

**(k) Group Residential Housing Grants**

General	91,069,000	98,671,000
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**People Incorporated.** Of the general fund appropriation, \$460,000 each year is to augment community support and mental health services provided to individuals residing in facilities under Minnesota Statutes, section 256I.05, subdivision 1m.

**(l) Other Children and Economic Assistance Grants**

General	20,183,000	16,333,000
Federal TANF	1,500,000	1,500,000

**Base Adjustment.** The general fund base shall be \$16,033,000 in fiscal year 2010 and \$15,533,000 in fiscal year 2011. The TANF base shall be \$1,500,000 in fiscal year 2010 and \$1,181,000 in fiscal year 2011.

**Homeless and Runaway Youth.** Of the general fund appropriation, \$500,000 each year are for the Runaway and Homeless Youth Act under Minnesota Statutes, section 256K.45. Funds shall be spent in each area of the continuum of care to ensure that programs are meeting the greatest need. This is a onetime appropriation.

**Long-Term Homelessness.** Of the general fund appropriation, \$2,000,000 in fiscal year 2008 is for implementation of programs to address long-term homelessness and is available in either year of the biennium. This is a onetime appropriation.

**Minnesota Community Action Grants.** (a) Of the general fund appropriation, \$250,000 each year is for the purposes of Minnesota community action grants under Minnesota Statutes, sections 256E.30 to 256E.32. This is a onetime appropriation.

(b) Of the TANF appropriation, \$1,500,000 each year is for community action agencies for auto repairs, auto loans, and auto purchase grants to individuals who are eligible to receive benefits under Minnesota Statutes, chapter 256J, or who have lost eligibility for benefits under Minnesota Statutes, chapter 256J, due to earnings in the prior 12 months. Base level funding for this activity shall be \$1,500,000 in fiscal year 2010 and \$1,181,000 in fiscal year 2011. \* **(The preceding text beginning "(b) Of the TANF appropriation," was indicated as vetoed by the governor.)**

(c) Money appropriated under paragraphs (a)

and (b) that is not spent in the first year does not cancel but is available for the second year.

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

**Sec. 13. EMERGENCY SERVICES SHELTER GRANTS FROM AMERICAN RECOVERY AND REINVESTMENT ACT.**

(a) To the extent permitted under federal law, the commissioner of human services, when determining the uses of the emergency services shelter grants provided under the American Recovery and Reinvestment Act, shall give priority to programs that serve the following:

- (1) homeless youth;
  - (2) American Indian women who are victims of trafficking;
  - (3) high-risk adult males considered to be very likely to enter or reenter state or county correctional programs, or chemical and mental health programs;
  - (4) battered women; and
  - (5) families affected by foreclosure.
- (b) Paragraph (a) does not supersede use of ARRA funds as otherwise provided in this act.

**Sec. 14. TRANSFERS.**

Subdivision 1. Grants. The commissioner of human services, with the approval of the commissioner of finance, and after notification of the chairs of the relevant senate budget division and house of representatives finance division committee, may transfer unencumbered appropriation balances for the biennium ending June 30, 2011, within fiscal years among the MFIP, general assistance, general assistance medical care, medical assistance, MinnesotaCare, MFIP child care assistance under Minnesota Statutes, section 119B.05, Minnesota supplemental aid, and group residential housing programs, and the entitlement portion of the chemical dependency consolidated treatment fund, and between fiscal years of the biennium.

Subd. 2. Administration. Positions, salary money, and nonsalary administrative money may be transferred within the Departments of Human Services and Health as the commissioners consider necessary, with the advance approval of the commissioner of finance. The commissioner shall inform the chairs of the relevant house and senate health committees quarterly about transfers made under this provision.

**Sec. 15. 2007 AND 2008 APPROPRIATION AMENDMENTS.**

(a) Notwithstanding Laws 2007, chapter 147, article 19, section 3, subdivision 4, paragraph (g), as amended by Laws 2008, chapter 363, article 18, section 7, the TANF fund base for the Children's Mental Health Pilots is \$0 in fiscal year 2011. This paragraph is effective retroactively from July 1, 2008.

(b) The appropriation for patient incentive programs under Laws 2007, chapter 147, article 19, section 3, subdivision 6, paragraph (e), is canceled. This paragraph is effective retroactively from July 1, 2007.

(c) The onetime general fund base reduction for Child Care Development Grants under Laws 2008, chapter 363, article 18, section 3, subdivision 4, paragraph (d), is increased by \$4,000. This paragraph is effective retroactively from July 1, 2008.

(d) The base for Children Services Grants under Laws 2008, chapter 363, article 18, section 3, subdivision 4, paragraph (e), is decreased \$1,000 in each year of the fiscal year 2010 and 2011 biennium. This paragraph is effective retroactively from July 1, 2008.

(e) Notwithstanding Laws 2008, chapter 363, article 18, section 3, subdivision 4, the general fund base adjustment for Children and Community Services Grants under Laws 2008, chapter 363, article 18, section 3, subdivision 4, paragraph (f), is increased by \$98,000 each year of fiscal years 2010 and 2011. This paragraph is effective retroactively from July 1, 2008.

(f) The base for Other Continuing Care Grants under Laws 2008, chapter 363, article 18, section 3, subdivision 6, paragraph (h), is decreased by \$10,000 in fiscal year 2010. This paragraph is effective retroactively from July 1, 2008.

**Sec. 16. INDIRECT COSTS NOT TO FUND PROGRAMS.**

The commissioners of health and human services shall not use indirect cost allocations to pay for the operational costs of any program for which they are responsible.

**Sec. 17. EXPIRATION OF UNCODIFIED LANGUAGE.**

All uncodified language contained in this article expires on June 30, 2011, unless a different expiration date is explicit.

**Sec. 18. EFFECTIVE DATE.**

The provisions in this article are effective July 1, 2009, unless a different effective date is specified."

Delete the title and insert:

"A bill for an act relating to state government; making changes to health and human services; amending provisions related to licensing, the Minnesota family investment program, child care, adult supports; fraud prevention, state-operated services, the Minnesota sex offender program, the Department of Health, health care programs, chemical and mental health; continuing care programs, and public health; establishing the State-County Results, Accountability, and Service Delivery Redesign; making technical changes; making forecast adjustments; requiring reports; establishing and increasing fees; appropriating money; amending Minnesota Statutes 2008, sections 60A.092, subdivision 2; 62D.03, subdivision 4; 62D.05, subdivision 3; 62J.495; 62J.496; 62J.497, subdivisions 1, 2, by adding subdivisions; 62J.692, subdivision 7; 103I.208, subdivision 2; 119B.09, subdivision 7; 119B.13, subdivision 6; 119B.21, subdivisions 5, 10; 119B.231, subdivisions 2, 3, 4; 144.0724, subdivisions 2, 4, 8, by adding subdivisions; 144.121, subdivisions 1a, 1b; 144.122; 144.1222, subdivision 1a; 144.125, subdivision 1; 144.226, subdivision 4; 144.72, subdivisions 1, 3; 144.9501, subdivisions 22b, 26a, by adding subdivisions; 144.9505, subdivisions 1g, 4; 144.9508, subdivisions 2, 3, 4; 144.9512, subdivision 2; 144.966, by adding a subdivision; 144.97, subdivisions 2, 4, 6, by adding subdivisions; 144.98, subdivisions 1, 2, 3, by adding subdivisions; 144.99, subdivision 1; 144A.073, by adding a subdivision; 144A.44, subdivision 2; 144A.46, subdivision 1; 145A.17, by adding a subdivision; 148.6445, by adding



a subdivision; 148D.180, subdivisions 1, 2, 3, 5; 148E.180, subdivisions 1, 2, 3, 5; 152.126, subdivisions 1, 2, 6; 153A.17; 157.15, by adding a subdivision; 157.16; 157.22; 176.011, subdivision 9; 245.462, subdivision 18; 245.470, subdivision 1; 245.4871, subdivision 27; 245.488, subdivision 1; 245A.03, by adding a subdivision; 245A.10, subdivisions 2, 3; 245A.11, subdivision 2a, by adding subdivisions; 245A.16, subdivisions 1, 3; 245C.03, subdivision 2; 245C.04, subdivisions 1, 3; 245C.05, subdivision 4, by adding a subdivision; 245C.08, subdivision 2; 245C.10, subdivision 3, by adding subdivisions; 245C.17, by adding a subdivision; 245C.20; 245C.21, subdivision 1a; 245C.23, subdivision 2; 246.50, subdivision 5, by adding subdivisions; 246.51, by adding subdivisions; 246.511; 246.52; 246.54, subdivision 2; 246B.01, by adding subdivisions; 252.025, subdivision 7; 252.46, by adding a subdivision; 252.50, subdivision 1; 254A.02, by adding a subdivision; 254A.16, by adding a subdivision; 254B.03, subdivisions 1, 3, by adding a subdivision; 254B.05, subdivision 1; 254B.09, subdivision 2; 256.01, subdivision 2b, by adding subdivisions; 256.045, subdivision 3; 256.476, subdivisions 5, 11; 256.962, subdivisions 2, 6; 256.969, subdivisions 2b, 3a, by adding subdivisions; 256.975, subdivision 7; 256.983, subdivision 1; 256B.04, subdivision 16; 256B.055, subdivisions 7, 12; 256B.056, subdivisions 3c, 3d; 256B.057, by adding a subdivision; 256B.0575; 256B.0595, subdivisions 1, 2; 256B.06, subdivisions 4, 5; 256B.0621, subdivision 2; 256B.0622, subdivision 2; 256B.0623, subdivision 5; 256B.0624, subdivisions 5, 8; 256B.0625, subdivisions 3, 3c, 6a, 7, 9, 11, 13, 13e, 13h, 17, 17a, 19a, 19c, 26, 42, 47, by adding subdivisions; 256B.0641, subdivision 3; 256B.0651; 256B.0652; 256B.0653; 256B.0654; 256B.0655, subdivisions 1b, 4; 256B.0657, subdivisions 2, 6, 8, by adding a subdivision; 256B.08, by adding a subdivision; 256B.0911, subdivisions 1, 1a, 3, 3a, 3b, 3c, 4a, 5, 6, 7, by adding subdivisions; 256B.0913, subdivision 4; 256B.0915, subdivisions 3a, 3e, 3h, 5, by adding a subdivision; 256B.0916, subdivision 2; 256B.0917, by adding a subdivision; 256B.092, subdivision 8a, by adding subdivisions; 256B.0943, subdivisions 1, 12; 256B.0944, by adding a subdivision; 256B.0947, subdivision 1; 256B.15, subdivisions 1, 1a, 1h, 2, by adding subdivisions; 256B.199; 256B.37, subdivisions 1, 5; 256B.434, subdivision 4, by adding a subdivision; 256B.437, subdivision 6; 256B.441, subdivisions 55, 58, by adding a subdivision; 256B.49, subdivisions 12, 13, 14, 17, by adding subdivisions; 256B.501, subdivision 4a; 256B.5011, subdivision 2; 256B.5012, by adding a subdivision; 256B.69, subdivisions 5a, 5c, 5f, 23; 256B.76, subdivision 1; 256D.03, subdivision 4; 256D.44, subdivision 5; 256G.02, subdivision 6; 256I.03, subdivision 7; 256I.05, subdivisions 1a, 7c; 256J.08, subdivision 73a; 256J.24, subdivision 5; 256J.425, subdivisions 2, 3; 256J.45, subdivision 3; 256J.49, subdivisions 1, 4; 256J.521, subdivision 2; 256J.545; 256J.561, subdivisions 2, 3; 256J.57, subdivision 1; 256J.575, subdivisions 3, 4, 6, 7; 256J.621; 256J.626, subdivision 7; 256J.95, subdivisions 3, 11, 12, 13; 256L.03, by adding a subdivision; 256L.04, subdivisions 1, 7a, 10a, by adding a subdivision; 256L.05, subdivisions 1, 3, 3a, by adding a subdivision; 256L.07, subdivisions 1, 2, 3, by adding a subdivision; 256L.11, subdivision 1; 256L.15, subdivisions 2, 3; 256L.17, subdivisions 3, 5; 259.67, by adding a subdivision; 270A.09, by adding a subdivision; 327.14, by adding a subdivision; 327.15; 327.16; 327.20, subdivision 1, by adding a subdivision; 501B.89, by adding a subdivision; 519.05; 604A.33, subdivision 1; 609.232, subdivision 11; 626.556, subdivision 3c; 626.5572, subdivisions 6, 13, 21; Laws 2003, First Special Session chapter 14, article 13C, section 2, subdivision 1, as amended; Laws 2007, chapter 147, article 19, section 3, subdivision 4, as amended; proposing coding for new law in Minnesota Statutes, chapters 62Q; 246B; 254B; 256; 256B; proposing coding for new law as Minnesota Statutes, chapter 402A; repealing Minnesota Statutes 2008, sections 103I.112; 144.9501, subdivision 17b; 148D.180, subdivision 8; 245C.11, subdivisions 1, 2; 246.51, subdivision 1; 246.53, subdivision 3; 256.962, subdivision 7; 256B.0655, subdivisions 1, 1a, 1c, 1d, 1e, 1f, 1g, 1h, 1i, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13; 256B.071,

subdivisions 1, 2, 3, 4; 256B.092, subdivision 5a; 256B.19, subdivision 1d; 256B.431, subdivision 23; 256I.06, subdivision 9; 256L.17, subdivision 6; 327.14, subdivisions 5, 6; Minnesota Rules, parts 4626.2015, subpart 9; 9555.6125, subpart 4, item B."

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

House Conferees: (Signed) Thomas Huntley, Paul Thissen, Larry Hosch, Karen Clark, Jim Abeler

Senate Conferees: (Signed) Linda Berglin, Tony Lourey, Kathy Sheran, Yvonne Prettner Solon

Senator Berglin moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1362 be now adopted, and that the bill be repassed as amended by the Conference Committee.

### CALL OF THE SENATE

Senator Betzold imposed a call of the Senate for the balance of the proceedings on H.F. No. 1362. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the Berglin motion. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1362 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 47 and nays 18, as follows:

Those who voted in the affirmative were:

Anderson	Dibble	Langseth	Pogemiller	Skogen
Bakk	Dille	Latz	Prettner Solon	Sparks
Berglin	Doll	Lourey	Rosen	Stumpf
Betzold	Erickson Ropes	Lynch	Rummel	Tomassoni
Bonoff	Fobbe	Metzen	Saltzman	Torres Ray
Carlson	Foley	Moua	Saxhaug	Vickerman
Chaudhary	Frederickson	Murphy	Scheid	Wiger
Clark	Higgins	Olseen	Sheran	
Cohen	Kelash	Olson, M.	Sieben	
Dahle	Kubly	Pappas	Skoe	

Those who voted in the negative were:

Day	Ingebrigtsen	Koering	Olson, G.	Senjem
Gerlach	Johnson	Limmer	Ortman	Vandever
Gimse	Jungbauer	Marty	Pariseau	
Hann	Koch	Michel	Robling	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

### MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Orders of Business of Motions and Resolutions, the Senate

reverted to the Orders of Business of Reports of Committees and Second Reading of Senate Bills.

### REPORTS OF COMMITTEES

Senator Pogemiller moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

**Senator Pogemiller from the Committee on Rules and Administration, to which was referred under Joint Rule 2.03, together with the committee report thereon,**

**S.F. No. 1797:** A bill for an act relating to education; requiring the State Advisory Council on Early Childhood Education and Care to create an inventory of early childhood services.

Reports the same back with the recommendation that the report from the Committee on Education, shown in the Journal for April 28, 2009, be adopted; that committee recommendation being:

"the bill be amended and when so amended the bill do pass". Amendments adopted. Report adopted.

**Senator Pogemiller from the Committee on Rules and Administration, to which was referred under Joint Rule 2.03, together with the committee report thereon,**

**S.F. No. 2089:** A bill for an act relating to education; providing for a study to examine the operating cost differential of school districts in the state.

Reports the same back with the recommendation that the report from the Committee on Education, shown in the Journal for April 28, 2009, be adopted; that committee recommendation being:

"the bill be amended and when so amended the bill do pass". Amendments adopted. Report adopted.

**Senator Pogemiller from the Committee on Rules and Administration, to which was re-referred**

**S.F. No. 1544:** A bill for an act relating to local government; removing, extending, or modifying certain mandates upon local governmental units; amending Minnesota Statutes 2008, sections 6.80, by adding a subdivision; 168.33, subdivision 7; 211B.37; 306.243, by adding a subdivision; 326B.145; 344.18; 365.28; 373.052, subdivisions 1, 2, by adding a subdivision; 375.12, subdivision 2; 382.265; 384.151, subdivision 1a; 385.373, subdivision 1a; 386.015, subdivision 2; 387.20, subdivisions 1, 2; 429.041, subdivisions 1, 2; 469.015; 471.999; 473.862; proposing coding for new law in Minnesota Statutes, chapter 14; repealing Minnesota Statutes 2008, sections 373.42; 384.151, subdivisions 1, 3; 385.373, subdivisions 1, 3; 386.015, subdivisions 1, 4; 387.20, subdivision 4; 471.661.

Reports the same back with the recommendation that the bill do pass. Report adopted.

**Senator Cohen from the Committee on Finance, to which was re-referred**

**S.F. No. 82:** A bill for an act relating to state government; establishing the Minnesota False Claims Act; assessing penalties; proposing coding for new law as Minnesota Statutes, chapter 15C.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 10, delete "to" and insert "by" and after "recipient" insert "to the state or a political subdivision"

Page 1, lines 11 and 12, after "state" insert "or the political subdivision"

Page 1, line 19, before the period, insert ", but in no case is a person who acts merely negligently, inadvertently, or mistakenly with respect to information deemed to have acted knowingly"

Page 1, line 23, after "state" insert "or the political subdivision"

Page 2, line 4, delete everything after "entity" and insert "but does not include the state or a political subdivision"

Page 2, line 5, delete everything before the period

Page 2, delete subdivision 6 and insert:

"Subd. 6. **Political subdivision.** "Political subdivision" means a political subdivision of the state and includes a department or agency of a political subdivision.

Subd. 7. **Prosecuting attorney.** "Prosecuting attorney" means:

(1) the attorney general, if the false or fraudulent claim involves money, property, or services provided by the state; or

(2) the county attorney, city attorney, or other attorney representing a political subdivision, if the false or fraudulent claim involves money, property, or services provided by the political subdivision.

Subd. 8. **State.** "State" means the state of Minnesota and includes a department or agency of the state."

Page 2, lines 9, 11, and 35, after "state" insert "or the political subdivision"

Page 2, lines 14, 16, 17, 24, 27, and 33, after "state" insert "or a political subdivision"

Page 2, line 21, after the first "state" insert "or a political subdivision" and before "less" insert "or a political subdivision"

Page 2, line 27, after the semicolon, insert "or"

Page 2, delete lines 28 to 30

Page 2, line 31, delete "(8)" and insert "(7)"

Page 3, line 1, delete "officials" and insert "an officer or employee"

Page 3, lines 2, 6, and 10, after "state" insert "or the political subdivision"

Page 3, line 5, delete "state" and after "investigation" insert "by the state or the political subdivision"

Page 3, after line 14, insert:

"(e) An employer is not liable for an act committed by a nonmanagerial employee that violates this section, unless the employer had knowledge of the act, ratified the act, or was reckless in the hiring or supervision of the employee."

Page 3, delete section 4 and insert:

"Sec. 4. [15C.04] RESPONSIBILITIES OF PROSECUTING ATTORNEY.

Subdivision 1. **General.** A prosecuting attorney may investigate violations of section 15C.02. If a prosecuting attorney finds that a person has violated or is violating section 15C.02, the prosecuting attorney may bring a civil action under this chapter against the person to enjoin an act in violation of section 15C.02 and to recover damages and penalties.

Subd. 2. **Investigatory powers.** (a) In connection with an investigation under this section, the prosecuting attorney may obtain discovery from any person regarding any matter, fact, or circumstance that is not privileged and is relevant to the investigation. The discovery may be obtained without commencement of a civil action and without leave of court. The applicable protective provisions of rules 26.02, 26.03, and 30.04 of the Minnesota Rules of Civil Procedure apply to discovery procedures under this section. The prosecuting attorney or any person to whom discovery is directed may apply to and obtain leave of the district court in order to reduce or extend the time requirements of this subdivision, and upon a showing of good cause, the district court shall order the reduction or extension. In order to obtain discovery, the prosecuting attorney may:

(1) serve written interrogatories on any person. Within 20 days after service of interrogatories, separate written answers and objections to each interrogatory must be mailed to the prosecuting attorney;

(2) upon reasonable written notice of no less than 15 days, require any person to produce for inspection and copying any documents, papers, books, accounts, letters, photographs, objects, or tangible things that are in the possession, custody, or control of that person; and

(3) upon reasonable written notice of no less than 15 days, take the testimony of any person by deposition as to any fact or opinion relevant to the investigation.

(b) If a person fails or refuses to answer interrogatories, to produce materials, or to be examined under oath as required under paragraph (a), upon notice the prosecuting attorney may apply to a district court and the court, on a showing by the prosecuting attorney of cause, may issue an order as may be required to compel compliance with the discovery procedures authorized by this subdivision."

Page 3, line 25, delete "ATTORNEY GENERAL" and insert "PROSECUTING ATTORNEY"

Page 3, line 32, delete "attorney general" and insert "prosecuting attorney"

Page 4, line 3, delete "by a person"

Page 4, delete lines 4 and 5 and insert:

"(1) against the state, the legislature, the judiciary, the executive branch, or a political subdivision, or their respective officers, members, or employees;"

Page 4, line 8, delete "of the state"

Page 4, lines 10, 19, 25, 28, 30, 31, and 33, delete "attorney general" and insert "prosecuting attorney"

Page 4, line 20, delete "substantially"

Page 4, line 22, delete "ATTORNEY GENERAL" and insert "PROSECUTING ATTORNEY"

Page 5, line 11, delete "ATTORNEY GENERAL" and insert "PROSECUTING ATTORNEY"

Page 5, lines 12, 14, 18, 19, 24, and 29, delete "attorney general" and insert "prosecuting attorney"

Page 5, line 16, delete everything after the first "the" and insert "prosecuting attorney if the prosecuting attorney so requests"

Page 5, line 20, delete everything after the first "the" and insert "prosecuting attorney so intervenes, the prosecuting attorney subsequently has"

Page 5, line 22, delete "attorney general" and insert "prosecuting attorney" and delete the second "attorney"

Page 5, line 23, delete "general" and insert "prosecuting attorney"

Page 5, line 25, delete everything after the first "the" and insert "prosecuting attorney intervenes in the action, the prosecuting attorney"

Page 5, line 28, delete everything after "The" and insert "prosecuting attorney may also settle the action. If the prosecuting attorney intends to"

Page 5, line 30, after "state" insert "or the political subdivision"

Page 6, lines 3, 5, 6, 10, and 22, delete "attorney general" and insert "prosecuting attorney"

Page 6, line 14, delete "attorney general" and insert "prosecuting attorney" and delete "attorney general" and insert "prosecuting attorney"

Page 6, line 29, after "state" insert "or the political subdivision"

Page 7, lines 1, 5, 12, 15, 18, and 21, delete "attorney general" and insert "prosecuting attorney"

Page 7, line 2, before "person" insert "prosecuting attorney or"

Page 7, line 8, delete "party or parties who participated in" and insert "person bringing"

Page 7, line 9, after the period, insert "The state or a political subdivision is not liable for expenses, attorney fees, or other costs incurred by a person in bringing or defending an action under this chapter."

Page 8, after line 3, insert:

"Sec. 15. **[15C.15] DEPOSIT OF STATE FUNDS; FALSE CLAIMS ACCOUNT.**

Subdivision 1. **Deposit of funds.** The net proceeds received by the state in an action under this chapter, after distributions made to private plaintiffs and as otherwise required by federal law, must be deposited in the state treasury and credited as follows:

(1) the portion of net proceeds equal to the amount of the actual damages that the state sustains because of an act specified in section 15C.02 must be credited to the fund that sustained the damages;

(2) the portion of net proceeds equal to the additional recovery of federal money authorized by United States Code, title 42, section 1396h, for a recovery under this chapter, as determined by the commissioner of finance, must be credited to the false claims account under subdivision 2, provided that the amount credited may not exceed \$1,000,000 in a fiscal year; and

(3) the remainder of the net proceeds must be credited to the general fund.

Subd. 2. **False claims account.** A false claims account is established in the special revenue fund in the state treasury. Money in the account is annually appropriated to the attorney general for purposes of this chapter.

Sec. 16. **APPROPRIATION.**

\$2,055,000 is appropriated from the general fund to the commissioner of finance for transfer to the false claims account. This amount must be repaid to the general fund when money is available. This is a onetime appropriation.

Sec. 17. **EFFECTIVE DATE.**

This act is effective July 1, 2010."

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "establishing a false claims account; appropriating money;"

Amend the title numbers accordingly

And when so amended the bill do pass. Amendments adopted. Report adopted.

## SECOND READING OF SENATE BILLS

S.F. Nos. 1797, 2089, 1544 and 82 were read the second time.

## MOTIONS AND RESOLUTIONS - CONTINUED

Senator Dille moved that his name be stricken as a co-author to S.F. No. 1651. The motion prevailed.

Senator Rummel moved that her name be stricken as chief author, shown as a co-author, and the name of Senator Cohen be added as a chief author to S.F. No. 1651. The motion prevailed.

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate proceeded to the Order of Business of General Orders.

### GENERAL ORDERS

The Senate resolved itself into a Committee of the Whole, with Senator Frederickson in the chair.

After some time spent therein, the committee arose, and Senator Metzen reported that the committee had considered the following:

H.F. No. 988, which the committee recommends to pass.

**H.F. No. 1760**, which the committee recommends to pass with the following amendments offered by Senators Lynch, Marty, Higgins and Prettner Solon:

Senator Lynch moved to amend H.F. No. 1760, as amended pursuant to Rule 45, adopted by the Senate May 8, 2009, as follows:

(The text of the amended House File is identical to S.F. No. 1526.)

Page 1, after line 10, insert:

"Section 1. Minnesota Statutes 2008, section 252.27, subdivision 1a, is amended to read:

Subd. 1a. **Definitions.** A "related condition" is a condition: (1) that is found to be closely related to a developmental disability, including, but not limited to, cerebral palsy, epilepsy, autism, fetal alcohol spectrum disorder, and Prader-Willi syndrome; and (2) that meets all of the following criteria:

~~(1)~~ (i) is severe and chronic;

~~(2)~~ (ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with developmental disabilities;

~~(3)~~ (iii) requires treatment or services similar to those required for persons with developmental disabilities;

~~(4)~~ (iv) is manifested before the person reaches 22 years of age;

~~(5)~~ (v) is likely to continue indefinitely;

~~(6)~~ (vi) results in substantial functional limitations in three or more of the following areas of major life activity: ~~(i)~~ (A) self-care, ~~(ii)~~ (B) understanding and use of language, ~~(iii)~~ (C) learning, ~~(iv)~~ (D) mobility, ~~(v)~~ (E) self-direction, ~~(vi)~~ (F) capacity for independent living; and

~~(7)~~ (vii) is not attributable to mental illness as defined in section 245.462, subdivision 20, or an emotional disturbance as defined in section 245.4871, subdivision 15.

For purposes of ~~elause (7)~~ item (vii), notwithstanding section 245.462, subdivision 20, or 245.4871, subdivision 15, "mental illness" does not include autism or other pervasive developmental disorders."



Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Marty moved to amend H.F. No. 1760, as amended pursuant to Rule 45, adopted by the Senate May 8, 2009, as follows:

(The text of the amended House File is identical to S.F. No. 1526.)

Page 1, after line 10, insert:

"Section 1. Minnesota Statutes 2008, section 62A.65, subdivision 4, is amended to read:

Subd. 4. **Gender rating prohibited.** (a) No individual health plan offered, sold, issued, or renewed to a Minnesota resident may determine the premium rate or any other underwriting decision, including initial issuance, through a method that is in any way based upon the gender of any person covered or to be covered under the health plan. This subdivision prohibits the use of marital status or generalized differences in expected costs between principal insureds and their spouses.

(b) No health carrier may refuse to initially offer, sell, or issue an individual health plan to a Minnesota resident solely on the basis that the individual had a previous cesarean delivery."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Higgins moved to amend H.F. No. 1760, as amended pursuant to Rule 45, adopted by the Senate May 8, 2009, as follows:

(The text of the amended House File is identical to S.F. No. 1526.)

Page 1, after line 10, insert:

"Section 1. Minnesota Statutes 2008, section 144.1501, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For purposes of this section, the following definitions apply.

(b) "Dentist" means an individual who is licensed to practice dentistry.

(c) "Designated rural area" means:

(1) an area in Minnesota outside the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington, excluding the cities of Duluth, Mankato, Moorhead, Rochester, and St. Cloud; or

(2) a municipal corporation, as defined under section 471.634, that is physically located, in whole or in part, in an area defined as a designated rural area under clause (1).

(d) "Emergency circumstances" means those conditions that make it impossible for the participant to fulfill the service commitment, including death, total and permanent disability, or

temporary disability lasting more than two years.

(e) "Medical resident" means an individual participating in a medical residency in family practice, internal medicine, obstetrics and gynecology, pediatrics, or psychiatry.

(f) "Midlevel practitioner" means a nurse practitioner, nurse-midwife, nurse anesthetist, advanced clinical nurse specialist, or physician assistant.

(g) "Nurse" means an individual who has completed training and received all licensing or certification necessary to perform duties as a licensed practical nurse or registered nurse.

(h) "Nurse-midwife" means a registered nurse who has graduated from a program of study designed to prepare registered nurses for advanced practice as nurse-midwives.

(i) "Nurse practitioner" means a registered nurse who has graduated from a program of study designed to prepare registered nurses for advanced practice as nurse practitioners.

(j) "Pharmacist" means an individual with a valid license issued under chapter 151.

(k) "Physician" means an individual who is licensed to practice medicine in the areas of family practice, internal medicine, obstetrics and gynecology, pediatrics, or psychiatry.

(l) "Physician assistant" means a person ~~registered~~ licensed under chapter 147A.

(m) "Qualified educational loan" means a government, commercial, or foundation loan for actual costs paid for tuition, reasonable education expenses, and reasonable living expenses related to the graduate or undergraduate education of a health care professional.

(n) "Underserved urban community" means a Minnesota urban area or population included in the list of designated primary medical care health professional shortage areas (HPSAs), medically underserved areas (MUAs), or medically underserved populations (MUPs) maintained and updated by the United States Department of Health and Human Services.

Sec. 2. Minnesota Statutes 2008, section 144E.001, subdivision 3a, is amended to read:

Subd. 3a. **Ambulance service personnel.** "Ambulance service personnel" means individuals who are authorized by a licensed ambulance service to provide emergency care for the ambulance service and are:

(1) EMTs, EMT-Is, or EMT-Ps;

(2) Minnesota registered nurses who are: (i) EMTs, are currently practicing nursing, and have passed a paramedic practical skills test, as approved by the board and administered by a training program approved by the board; (ii) on the roster of an ambulance service on or before January 1, 2000; or (iii) after petitioning the board, deemed by the board to have training and skills equivalent to an EMT, as determined on a case-by-case basis; or

(3) Minnesota ~~registered~~ licensed physician assistants who are: (i) EMTs, are currently practicing as physician assistants, and have passed a paramedic practical skills test, as approved by the board and administered by a training program approved by the board; (ii) on the roster of an ambulance service on or before January 1, 2000; or (iii) after petitioning the board, deemed by the board to have training and skills equivalent to an EMT, as determined on a case-by-case basis.

Sec. 3. Minnesota Statutes 2008, section 144E.001, subdivision 9c, is amended to read:

Subd. 9c. **Physician assistant.** "Physician assistant" means a person ~~registered~~ licensed to practice as a physician assistant under chapter 147A.

Sec. 4. Minnesota Statutes 2008, section 147.09, is amended to read:

**147.09 EXEMPTIONS.**

Section 147.081 does not apply to, control, prevent or restrict the practice, service, or activities of:

(1) A person who is a commissioned medical officer of, a member of, or employed by, the armed forces of the United States, the United States Public Health Service, the Veterans Administration, any federal institution or any federal agency while engaged in the performance of official duties within this state, if the person is licensed elsewhere.

(2) A licensed physician from a state or country who is in actual consultation here.

(3) A licensed or registered physician who treats the physician's home state patients or other participating patients while the physicians and those patients are participating together in outdoor recreation in this state as defined by section 86A.03, subdivision 3. A physician shall first register with the board on a form developed by the board for that purpose. The board shall not be required to promulgate the contents of that form by rule. No fee shall be charged for this registration.

(4) A student practicing under the direct supervision of a preceptor while the student is enrolled in and regularly attending a recognized medical school.

(5) A student who is in continuing training and performing the duties of an intern or resident or engaged in postgraduate work considered by the board to be the equivalent of an internship or residency in any hospital or institution approved for training by the board, provided the student has a residency permit issued by the board under section 147.0391.

(6) A person employed in a scientific, sanitary, or teaching capacity by the state university, the Department of Education, a public or private school, college, or other bona fide educational institution, a nonprofit organization, which has tax-exempt status in accordance with the Internal Revenue Code, section 501(c)(3), and is organized and operated primarily for the purpose of conducting scientific research directed towards discovering the causes of and cures for human diseases, or the state Department of Health, whose duties are entirely of a research, public health, or educational character, while engaged in such duties; provided that if the research includes the study of humans, such research shall be conducted under the supervision of one or more physicians licensed under this chapter.

(7) ~~Physician's~~ Physician assistants ~~registered~~ licensed in this state.

(8) A doctor of osteopathy duly licensed by the state Board of Osteopathy under Minnesota Statutes 1961, sections 148.11 to 148.16, prior to May 1, 1963, who has not been granted a license to practice medicine in accordance with this chapter provided that the doctor confines activities within the scope of the license.

(9) Any person licensed by a health-related licensing board, as defined in section 214.01, subdivision 2, or registered by the commissioner of health pursuant to section 214.13, including

psychological practitioners with respect to the use of hypnosis; provided that the person confines activities within the scope of the license.

(10) A person who practices ritual circumcision pursuant to the requirements or tenets of any established religion.

(11) A Christian Scientist or other person who endeavors to prevent or cure disease or suffering exclusively by mental or spiritual means or by prayer.

(12) A physician licensed to practice medicine in another state who is in this state for the sole purpose of providing medical services at a competitive athletic event. The physician may practice medicine only on participants in the athletic event. A physician shall first register with the board on a form developed by the board for that purpose. The board shall not be required to adopt the contents of the form by rule. The physician shall provide evidence satisfactory to the board of a current unrestricted license in another state. The board shall charge a fee of \$50 for the registration.

(13) A psychologist licensed under section 148.907 or a social worker licensed under chapter 148D who uses or supervises the use of a penile or vaginal plethysmograph in assessing and treating individuals suspected of engaging in aberrant sexual behavior and sex offenders.

(14) Any person issued a training course certificate or credentialed by the Emergency Medical Services Regulatory Board established in chapter 144E, provided the person confines activities within the scope of training at the certified or credentialed level.

(15) An unlicensed complementary and alternative health care practitioner practicing according to chapter 146A.

Sec. 5. Minnesota Statutes 2008, section 147A.01, is amended to read:

#### **147A.01 DEFINITIONS.**

Subdivision 1. **Scope.** For the purpose of this chapter the terms defined in this section have the meanings given them.

~~Subd. 2. **Active status.** "Active status" means the status of a person who has met all the qualifications of a physician assistant, has a physician-physician assistant agreement in force, and is registered.~~

Subd. 3. **Administer.** "Administer" means the delivery by a physician assistant authorized to prescribe legend drugs, a single dose of a legend drug, including controlled substances, to a patient by injection, inhalation, ingestion, or by any other immediate means, and the delivery by a physician assistant ordered by a physician a single dose of a legend drug by injection, inhalation, ingestion, or by any other immediate means.

Subd. 4. **Agreement.** "Agreement" means the document described in section 147A.20.

Subd. 5. **Alternate supervising physician.** "Alternate supervising physician" means a Minnesota licensed physician listed in the physician-physician assistant delegation agreement, or supplemental listing, who is responsible for supervising the physician assistant when the main primary supervising physician is unavailable. The alternate supervising physician shall accept full medical responsibility for the performance, practice, and activities of the physician assistant while under the supervision of the alternate supervising physician.

Subd. 6. **Board.** "Board" means the Board of Medical Practice or its designee.

Subd. 7. **Controlled substances.** "Controlled substances" has the meaning given it in section 152.01, subdivision 4.

~~Subd. 8. **Delegation form.** "Delegation form" means the form used to indicate the categories of drugs for which the authority to prescribe, administer, and dispense has been delegated to the physician assistant and signed by the supervising physician, any alternate supervising physicians, and the physician assistant. This form is part of the agreement described in section 147A.20, and shall be maintained by the supervising physician and physician assistant at the address of record. Copies shall be provided to the board upon request. "Addendum to the delegation form" means a separate listing of the schedules and categories of controlled substances, if any, for which the physician assistant has been delegated the authority to prescribe, administer, and dispense. The addendum shall be maintained as a separate document as described above.~~

Subd. 9. **Diagnostic order.** "Diagnostic order" means a directive to perform a procedure or test, the purpose of which is to determine the cause and nature of a pathological condition or disease.

Subd. 10. **Drug.** "Drug" has the meaning given it in section 151.01, subdivision 5, including controlled substances as defined in section 152.01, subdivision 4.

Subd. 11. **Drug category.** "Drug category" means one of the categories listed on the physician-physician assistant delegation form agreement.

Subd. 12. **Inactive status.** "Inactive status" means the status of a person who has met all the qualifications of a physician assistant, and is registered, but does not have a physician-physician assistant agreement in force a licensed physician assistant whose license has been placed on inactive status under section 147A.05.

~~Subd. 13. **Internal protocol.** "Internal protocol" means a document written by the supervising physician and the physician assistant which specifies the policies and procedures which will apply to the physician assistant's prescribing, administering, and dispensing of legend drugs and medical devices, including controlled substances as defined in section 152.01, subdivision 4, and lists the specific categories of drugs and medical devices, with any exceptions or conditions, that the physician assistant is authorized to prescribe, administer, and dispense. The supervising physician and physician assistant shall maintain the protocol at the address of record. Copies shall be provided to the board upon request.~~

Subd. 14. **Legend drug.** "Legend drug" has the meaning given it in section 151.01, subdivision 17.

Subd. 14a. **Licensed.** "Licensed" means meeting the qualifications in section 147A.02 and being issued a license by the board.

Subd. 14b. **Licensure.** "Licensure" means the process by which the board determines that an applicant has met the standards and qualifications in this chapter.

~~Subd. 15. **Locum tenens permit.** "Locum tenens permit" means time specific temporary permission for a physician assistant to practice as a physician assistant in a setting other than the practice setting established in the physician-physician assistant agreement.~~

Subd. 16. **Medical device.** "Medical device" means durable medical equipment and assistive or rehabilitative appliances, objects, or products that are required to implement the overall plan of care for the patient and that are restricted by federal law to use upon prescription by a licensed practitioner.

Subd. 16a. **Notice of intent to practice.** "Notice of intent to practice" means a document sent to the board by a licensed physician assistant that documents the adoption of a physician-physician assistant delegation agreement and provides the names, addresses, and information required by section 147A.20.

Subd. 17. **Physician.** "Physician" means a person currently licensed in good standing as a physician or osteopath under chapter 147.

Subd. 17a. **Physician-physician assistant delegation agreement.** "Physician-physician assistant delegation agreement" means the document prepared and signed by the physician and physician assistant affirming the supervisory relationship and defining the physician assistant scope of practice. Alternate supervising physicians must be identified on the delegation agreement or a supplemental listing with signed attestation that each shall accept full medical responsibility for the performance, practice, and activities of the physician assistant while under the supervision of the alternate supervising physician. The physician-physician assistant delegation agreement outlines the role of the physician assistant in the practice, describes the means of supervision, and specifies the categories of drugs, controlled substances, and medical devices that the supervising physician delegates to the physician assistant to prescribe. The physician-physician assistant delegation agreement must comply with the requirements of section 147A.20, be kept on file at the address of record, and be made available to the board or its representative upon request.

Subd. 18. **Physician assistant or registered licensed physician assistant.** "Physician assistant" or "registered licensed physician assistant" means a person registered licensed pursuant to this chapter who is qualified by academic or practical training or both to provide patient services as specified in this chapter, under the supervision of a supervising physician meets the qualifications in section 147A.02.

Subd. 19. **Practice setting description.** "Practice setting description" means a signed record submitted to the board on forms provided by the board, on which:

(1) the supervising physician assumes full medical responsibility for the medical care rendered by a physician assistant;

(2) is recorded the address and phone number of record of each supervising physician and alternate, and the physicians' medical license numbers and DEA number;

(3) is recorded the address and phone number of record of the physician assistant and the physician assistant's registration number and DEA number;

(4) is recorded whether the physician assistant has been delegated prescribing, administering, and dispensing authority;

(5) is recorded the practice setting, address or addresses and phone number or numbers of the physician assistant; and

(6) is recorded a statement of the type, amount, and frequency of supervision.

Subd. 20. **Prescribe.** "Prescribe" means to direct, order, or designate by means of a prescription the preparation, use of, or manner of using a drug or medical device.

Subd. 21. **Prescription.** "Prescription" means a signed written order, ~~or~~ an oral order reduced to writing, or an electronic order meeting current and prevailing standards given by a physician assistant authorized to prescribe drugs for patients in the course of the physician assistant's practice, issued for an individual patient and containing the information required in the physician-physician assistant delegation form agreement.

~~Subd. 22. **Registration.** "Registration" is the process by which the board determines that an applicant has been found to meet the standards and qualifications found in this chapter.~~

Subd. 23. **Supervising physician.** "Supervising physician" means a Minnesota licensed physician who accepts full medical responsibility for the performance, practice, and activities of a physician assistant under an agreement as described in section 147A.20. The supervising physician who completes and signs the delegation agreement may be referred to as the primary supervising physician. A supervising physician shall not supervise more than two five full-time equivalent physician assistants simultaneously. With the approval of the board, or in a disaster or emergency situation pursuant to section 147A.23, a supervising physician may supervise more than five full-time equivalent physician assistants simultaneously.

Subd. 24. **Supervision.** "Supervision" means overseeing the activities of, and accepting responsibility for, the medical services rendered by a physician assistant. The constant physical presence of the supervising physician is not required so long as the supervising physician and physician assistant are or can be easily in contact with one another by radio, telephone, or other telecommunication device. The scope and nature of the supervision shall be defined by the individual physician-physician assistant delegation agreement.

~~Subd. 25. **Temporary registration license.** "Temporary registration" means the status of a person who has satisfied the education requirement specified in this chapter; is enrolled in the next examination required in this chapter; or is awaiting examination results; has a physician-physician assistant agreement in force as required by this chapter, and has submitted a practice setting description to the board. Such provisional registration shall expire 90 days after completion of the next examination sequence, or after one year, whichever is sooner, for those enrolled in the next examination; and upon receipt of the examination results for those awaiting examination results. The registration shall be granted by the board or its designee. "Temporary license" means a license granted to a physician assistant who meets all of the qualifications for licensure but has not yet been approved for licensure at a meeting of the board.~~

Subd. 26. **Therapeutic order.** "Therapeutic order" means an order given to another for the purpose of treating or curing a patient in the course of a physician assistant's practice. Therapeutic orders may be written or verbal, but do not include the prescribing of legend drugs or medical devices unless prescribing authority has been delegated within the physician-physician assistant delegation agreement.

Subd. 27. **Verbal order.** "Verbal order" means an oral order given to another for the purpose of treating or curing a patient in the course of a physician assistant's practice. Verbal orders do not include the prescribing of legend drugs unless prescribing authority has been delegated within the physician-physician assistant delegation agreement.

Sec. 6. Minnesota Statutes 2008, section 147A.02, is amended to read:

**147A.02 QUALIFICATIONS FOR ~~REGISTRATION~~ LICENSURE.**

Except as otherwise provided in this chapter, an individual shall be ~~registered~~ licensed by the board before the individual may practice as a physician assistant.

The board may grant ~~registration~~ a license as a physician assistant to an applicant who:

- (1) submits an application on forms approved by the board;
- (2) pays the appropriate fee as determined by the board;
- (3) has current certification from the National Commission on Certification of Physician Assistants, or its successor agency as approved by the board;
- (4) certifies that the applicant is mentally and physically able to engage safely in practice as a physician assistant;
- (5) has no licensure, certification, or registration as a physician assistant under current discipline, revocation, suspension, or probation for cause resulting from the applicant's practice as a physician assistant, unless the board considers the condition and agrees to licensure;
- (6) submits any other information the board deems necessary to evaluate the applicant's qualifications; and
- (7) has been approved by the board.

All persons registered as physician assistants as of June 30, 1995, are eligible for continuing ~~registration~~ license renewal. All persons applying for ~~registration~~ licensure after that date shall be ~~registered~~ licensed according to this chapter.

Sec. 7. Minnesota Statutes 2008, section 147A.03, is amended to read:

**147A.03 PROTECTED TITLES AND RESTRICTIONS ON USE.**

Subdivision 1. **Protected titles.** No individual may use the titles "Minnesota ~~Registered Licensed~~ Physician Assistant," "~~Registered Licensed~~ Physician Assistant," "Physician Assistant," or "PA" in connection with the individual's name, or any other words, letters, abbreviations, or insignia indicating or implying that the individual is ~~registered with~~ licensed by the state unless they have been ~~registered~~ licensed according to this chapter.

Subd. 2. **Health care practitioners.** Individuals practicing in a health care occupation are not restricted in the provision of services included in this chapter as long as they do not hold themselves out as physician assistants by or through the titles provided in subdivision 1 in association with provision of these services.

~~Subd. 3. **Identification of registered practitioners.** Physician assistants in Minnesota shall wear name tags which identify them as physician assistants.~~

Subd. 4. **Sanctions.** Individuals who hold themselves out as physician assistants by or through any of the titles provided in subdivision 1 without prior ~~registration~~ licensure shall be subject to sanctions or actions against continuing the activity according to section 214.11, or other authority.



Sec. 8. Minnesota Statutes 2008, section 147A.04, is amended to read:

**147A.04 TEMPORARY ~~PERMIT~~ LICENSE.**

The board may issue a temporary ~~permit~~ license to practice to a physician assistant eligible for ~~registration~~ licensure under this chapter only if the application for ~~registration~~ licensure is complete, all requirements have been met, and a nonrefundable fee set by the board has been paid. The ~~permit~~ temporary license remains valid only until the next meeting of the board at which a decision is made on the application for ~~registration~~ licensure.

Sec. 9. Minnesota Statutes 2008, section 147A.05, is amended to read:

**147A.05 INACTIVE ~~REGISTRATION~~ LICENSE.**

Physician assistants who notify the board in writing ~~on forms prescribed by the board~~ may elect to place their ~~registrations~~ license on an inactive status. Physician assistants with an inactive ~~registration~~ license shall be excused from payment of renewal fees and shall not practice as physician assistants. Persons who engage in practice while their ~~registrations~~ are license is lapsed or on inactive status shall be considered to be practicing without ~~registration~~ a license, which shall be grounds for discipline under section 147A.13. Physician assistants who provide care under the provisions of section 147A.23 shall not be considered practicing without a license or subject to disciplinary action. Physician assistants requesting restoration from inactive status who notify the board of their intent to resume active practice shall be required to pay the current renewal fees and all unpaid back fees and shall be required to meet the criteria for renewal specified in section 147A.07.

Sec. 10. Minnesota Statutes 2008, section 147A.06, is amended to read:

**147A.06 CANCELLATION OF ~~REGISTRATION~~ LICENSE FOR NONRENEWAL.**

The board shall not renew, reissue, reinstate, or restore a ~~registration~~ license that has lapsed on or after July 1, 1996, and has not been renewed within two annual renewal cycles starting July 1, 1997. A ~~registrant~~ licensee whose ~~registration~~ license is canceled for nonrenewal must obtain a new ~~registration~~ license by applying for ~~registration~~ licensure and fulfilling all requirements then in existence for an initial ~~registration~~ license to practice as a physician assistant.

Sec. 11. Minnesota Statutes 2008, section 147A.07, is amended to read:

**147A.07 RENEWAL.**

A person who holds a ~~registration~~ license as a physician assistant shall annually, upon notification from the board, renew the ~~registration~~ license by:

- (1) submitting the appropriate fee as determined by the board;
- (2) completing the appropriate forms; and
- (3) meeting any other requirements of the board;

~~(4) submitting a revised and updated practice setting description showing evidence of annual review of the physician-physician assistant supervisory agreement.~~

Sec. 12. Minnesota Statutes 2008, section 147A.08, is amended to read:

**147A.08 EXEMPTIONS.**

(a) This chapter does not apply to, control, prevent, or restrict the practice, service, or activities of persons listed in section 147.09, clauses (1) to (6) and (8) to (13), persons regulated under section 214.01, subdivision 2, or persons defined in section 144.1501, subdivision 1, paragraphs (f), (h), and (i).

(b) Nothing in this chapter shall be construed to require ~~registration~~ licensure of:

(1) a physician assistant student enrolled in a physician assistant ~~or surgeon assistant~~ educational program accredited by the ~~Committee on Allied Health Education and Accreditation Review~~ Commission on Education for the Physician Assistant or by its successor agency approved by the board;

(2) a physician assistant employed in the service of the federal government while performing duties incident to that employment; or

(3) technicians, other assistants, or employees of physicians who perform delegated tasks in the office of a physician but who do not identify themselves as a physician assistant.

Sec. 13. Minnesota Statutes 2008, section 147A.09, is amended to read:

**147A.09 SCOPE OF PRACTICE, DELEGATION.**

Subdivision 1. **Scope of practice.** Physician assistants shall practice medicine only with physician supervision. Physician assistants may perform those duties and responsibilities as delegated in the physician-physician assistant delegation agreement and delegation forms maintained at the address of record by the supervising physician and physician assistant, including the prescribing, administering, and dispensing of drugs, controlled substances, and medical devices ~~and drugs~~, excluding anesthetics, other than local anesthetics, injected in connection with an operating room procedure, inhaled anesthesia and spinal anesthesia.

Patient service must be limited to:

(1) services within the training and experience of the physician assistant;

(2) services customary to the practice of the supervising physician or alternate supervising physician;

(3) services delegated by the supervising physician or alternate supervising physician under the physician-physician assistant delegation agreement; and

(4) services within the parameters of the laws, rules, and standards of the facilities in which the physician assistant practices.

Nothing in this chapter authorizes physician assistants to perform duties regulated by the boards listed in section 214.01, subdivision 2, other than the Board of Medical Practice, and except as provided in this section.

Subd. 2. **Delegation.** Patient services may include, but are not limited to, the following, as delegated by the supervising physician and authorized in the delegation agreement:

(1) taking patient histories and developing medical status reports;

- (2) performing physical examinations;
- (3) interpreting and evaluating patient data;
- (4) ordering or performing diagnostic procedures, including radiography the use of radiographic imaging systems in compliance with Minnesota Rules 2007, chapter 4732;
- (5) ordering or performing therapeutic procedures including the use of ionizing radiation in compliance with Minnesota Rules 2007, chapter 4732;
- (6) providing instructions regarding patient care, disease prevention, and health promotion;
- (7) assisting the supervising physician in patient care in the home and in health care facilities;
- (8) creating and maintaining appropriate patient records;
- (9) transmitting or executing specific orders at the direction of the supervising physician;
- (10) prescribing, administering, and dispensing ~~legend~~ drugs, controlled substances, and medical devices if this function has been delegated by the supervising physician pursuant to and subject to the limitations of section 147A.18 and chapter 151. For physician assistants who have been delegated the authority to prescribe controlled substances shall maintain a separate addendum to the delegation form which lists all schedules and categories such delegation shall be included in the physician-physician assistant delegation agreement, and all schedules of controlled substances which the physician assistant has the authority to prescribe. This addendum shall be maintained with the physician-physician assistant agreement, and the delegation form at the address of record shall be specified;
- (11) for physician assistants not delegated prescribing authority, administering legend drugs and medical devices following prospective review for each patient by and upon direction of the supervising physician;
- (12) functioning as an emergency medical technician with permission of the ambulance service and in compliance with section 144E.127, and ambulance service rules adopted by the commissioner of health;
- (13) initiating evaluation and treatment procedures essential to providing an appropriate response to emergency situations; ~~and~~
- (14) certifying a ~~physical disability~~ patient's eligibility for a disability parking certificate under section 169.345, subdivision 2a 2;
- (15) assisting at surgery; and
- (16) providing medical authorization for admission for emergency care and treatment of a patient under section 253B.05, subdivision 2.

Orders of physician assistants shall be considered the orders of their supervising physicians in all practice-related activities, including, but not limited to, the ordering of diagnostic, therapeutic, and other medical services.

Sec. 14. Minnesota Statutes 2008, section 147A.11, is amended to read:

**147A.11 EXCLUSIONS OF LIMITATIONS ON EMPLOYMENT.**

Nothing in this chapter shall be construed to limit the employment arrangement of a physician assistant ~~registered~~ licensed under this chapter.

Sec. 15. Minnesota Statutes 2008, section 147A.13, is amended to read:

**147A.13 GROUNDS FOR DISCIPLINARY ACTION.**

Subdivision 1. **Grounds listed.** The board may refuse to grant ~~registration~~ licensure or may impose disciplinary action as described in this subdivision against any physician assistant. The following conduct is prohibited and is grounds for disciplinary action:

(1) failure to demonstrate the qualifications or satisfy the requirements for ~~registration~~ licensure contained in this chapter or rules of the board. The burden of proof shall be upon the applicant to demonstrate such qualifications or satisfaction of such requirements;

(2) obtaining ~~registration~~ a license by fraud or cheating, or attempting to subvert the examination process. Conduct which subverts or attempts to subvert the examination process includes, but is not limited to:

(i) conduct which violates the security of the examination materials, such as removing examination materials from the examination room or having unauthorized possession of any portion of a future, current, or previously administered licensing examination;

(ii) conduct which violates the standard of test administration, such as communicating with another examinee during administration of the examination, copying another examinee's answers, permitting another examinee to copy one's answers, or possessing unauthorized materials; and

(iii) impersonating an examinee or permitting an impersonator to take the examination on one's own behalf;

(3) conviction, during the previous five years, of a felony reasonably related to the practice of physician assistant. Conviction as used in this subdivision includes a conviction of an offense which if committed in this state would be deemed a felony without regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilt is made or returned but the adjudication of guilt is either withheld or not entered;

(4) revocation, suspension, restriction, limitation, or other disciplinary action against the person's physician assistant credentials in another state or jurisdiction, failure to report to the board that charges regarding the person's credentials have been brought in another state or jurisdiction, or having been refused ~~registration~~ licensure by any other state or jurisdiction;

(5) advertising which is false or misleading, violates any rule of the board, or claims without substantiation the positive cure of any disease or professional superiority to or greater skill than that possessed by another physician assistant;

(6) violating a rule adopted by the board or an order of the board, a state, or federal law which relates to the practice of a physician assistant, or in part regulates the practice of a physician assistant, including without limitation sections 148A.02, 609.344, and 609.345, or a state or federal narcotics or controlled substance law;

(7) engaging in any unethical conduct; conduct likely to deceive, defraud, or harm the public, or demonstrating a willful or careless disregard for the health, welfare, or safety of a patient; or practice which is professionally incompetent, in that it may create unnecessary danger to any patient's life, health, or safety, in any of which cases, proof of actual injury need not be established;

(8) failure to adhere to the provisions of the physician-physician assistant delegation agreement;

(9) engaging in the practice of medicine beyond that allowed by the physician-physician assistant delegation agreement, ~~including the delegation form or the addendum to the delegation form,~~ or aiding or abetting an unlicensed person in the practice of medicine;

(10) adjudication as mentally incompetent, mentally ill or developmentally disabled, or as a chemically dependent person, a person dangerous to the public, a sexually dangerous person, or a person who has a sexual psychopathic personality by a court of competent jurisdiction, within or without this state. Such adjudication shall automatically suspend a ~~registration~~ license for its duration unless the board orders otherwise;

(11) engaging in unprofessional conduct. Unprofessional conduct includes any departure from or the failure to conform to the minimal standards of acceptable and prevailing practice in which proceeding actual injury to a patient need not be established;

(12) inability to practice with reasonable skill and safety to patients by reason of illness, drunkenness, use of drugs, narcotics, chemicals, or any other type of material, or as a result of any mental or physical condition, including deterioration through the aging process or loss of motor skills;

(13) revealing a privileged communication from or relating to a patient except when otherwise required or permitted by law;

(14) any ~~use of~~ identification of a physician assistant by the title "Physician," "Doctor," or "Dr." in a patient care setting or in a communication directed to the general public;

(15) improper management of medical records, including failure to maintain adequate medical records, to comply with a patient's request made pursuant to sections 144.291 to 144.298, or to furnish a medical record or report required by law;

(16) engaging in abusive or fraudulent billing practices, including violations of the federal Medicare and Medicaid laws or state medical assistance laws;

(17) becoming addicted or habituated to a drug or intoxicant;

(18) prescribing a drug or device for other than medically accepted therapeutic, experimental, or investigative purposes authorized by a state or federal agency or referring a patient to any health care provider as defined in sections 144.291 to 144.298 for services or tests not medically indicated at the time of referral;

(19) engaging in conduct with a patient which is sexual or may reasonably be interpreted by the patient as sexual, or in any verbal behavior which is seductive or sexually demeaning to a patient;

(20) failure to make reports as required by section 147A.14 or to cooperate with an investigation of the board as required by section 147A.15, subdivision 3;

(21) knowingly providing false or misleading information that is directly related to the care of that patient unless done for an accepted therapeutic purpose such as the administration of a placebo;

(22) aiding suicide or aiding attempted suicide in violation of section 609.215 as established by any of the following:

(i) a copy of the record of criminal conviction or plea of guilty for a felony in violation of section 609.215, subdivision 1 or 2;

(ii) a copy of the record of a judgment of contempt of court for violating an injunction issued under section 609.215, subdivision 4;

(iii) a copy of the record of a judgment assessing damages under section 609.215, subdivision 5; or

(iv) a finding by the board that the person violated section 609.215, subdivision 1 or 2. The board shall investigate any complaint of a violation of section 609.215, subdivision 1 or 2; or

(23) failure to maintain annually reviewed and updated physician-physician assistant delegation agreements, internal protocols, or prescribing delegation forms for each physician-physician assistant practice relationship, or failure to provide copies of such documents upon request by the board.

Subd. 2. **Effective dates, automatic suspension.** A suspension, revocation, condition, limitation, qualification, or restriction of a registration license shall be in effect pending determination of an appeal unless the court, upon petition and for good cause shown, orders otherwise.

A physician assistant registration license is automatically suspended if:

(1) a guardian of a registrant licensee is appointed by order of a court pursuant to sections 524.5-101 to 524.5-502, for reasons other than the minority of the registrant licensee; or

(2) the registrant licensee is committed by order of a court pursuant to chapter 253B. The registration license remains suspended until the registrant licensee is restored to capacity by a court and, upon petition by the registrant licensee, the suspension is terminated by the board after a hearing.

Subd. 3. **Conditions on reissued ~~registration~~ license.** In its discretion, the board may restore and reissue a physician assistant registration license, but may impose as a condition any disciplinary or corrective measure which it might originally have imposed.

Subd. 4. **Temporary suspension of ~~registration~~ license.** In addition to any other remedy provided by law, the board may, without a hearing, temporarily suspend the registration license of a physician assistant if the board finds that the physician assistant has violated a statute or rule which the board is empowered to enforce and continued practice by the physician assistant would create a serious risk of harm to the public. The suspension shall take effect upon written notice to the physician assistant, specifying the statute or rule violated. The suspension shall remain in effect until the board issues a final order in the matter after a hearing. At the time it issues the suspension notice, the board shall schedule a disciplinary hearing to be held pursuant to the Administrative Procedure Act.

The physician assistant shall be provided with at least 20 days' notice of any hearing held pursuant to this subdivision. The hearing shall be scheduled to begin no later than 30 days after the issuance of the suspension order.

Subd. 5. **Evidence.** In disciplinary actions alleging a violation of subdivision 1, clause (3) or (4), a copy of the judgment or proceeding under the seal of the court administrator or of the administrative agency which entered it shall be admissible into evidence without further authentication and shall constitute prima facie evidence of the contents thereof.

Subd. 6. **Mental examination; access to medical data.** (a) If the board has probable cause to believe that a physician assistant comes under subdivision 1, clause (1), it may direct the physician assistant to submit to a mental or physical examination. For the purpose of this subdivision, every physician assistant ~~registered~~ licensed under this chapter is deemed to have consented to submit to a mental or physical examination when directed in writing by the board and further to have waived all objections to the admissibility of the examining physicians' testimony or examination reports on the ground that the same constitute a privileged communication. Failure of a physician assistant to submit to an examination when directed constitutes an admission of the allegations against the physician assistant, unless the failure was due to circumstance beyond the physician assistant's control, in which case a default and final order may be entered without the taking of testimony or presentation of evidence. A physician assistant affected under this subdivision shall at reasonable intervals be given an opportunity to demonstrate that the physician assistant can resume competent practice with reasonable skill and safety to patients. In any proceeding under this subdivision, neither the record of proceedings nor the orders entered by the board shall be used against a physician assistant in any other proceeding.

(b) In addition to ordering a physical or mental examination, the board may, notwithstanding sections 13.384, 144.651, or any other law limiting access to medical or other health data, obtain medical data and health records relating to a ~~registrant~~ licensee or applicant without the ~~registrant's~~ licensee's or applicant's consent if the board has probable cause to believe that a physician assistant comes under subdivision 1, clause (1).

The medical data may be requested from a provider, as defined in section 144.291, subdivision 2, paragraph (h), an insurance company, or a government agency, including the Department of Human Services. A provider, insurance company, or government agency shall comply with any written request of the board under this subdivision and is not liable in any action for damages for releasing the data requested by the board if the data are released pursuant to a written request under this subdivision, unless the information is false and the provider giving the information knew, or had reason to believe, the information was false. Information obtained under this subdivision is classified as private under chapter 13.

Subd. 7. **Tax clearance certificate.** (a) In addition to the provisions of subdivision 1, the board may not issue or renew a ~~registration~~ license if the commissioner of revenue notifies the board and the ~~registrant~~ licensee or applicant for ~~registration~~ licensure that the ~~registrant~~ licensee or applicant owes the state delinquent taxes in the amount of \$500 or more. The board may issue or renew the ~~registration~~ license only if:

- (1) the commissioner of revenue issues a tax clearance certificate; and
- (2) the commissioner of revenue, the ~~registrant~~ licensee, or the applicant forwards a copy of the clearance to the board.

The commissioner of revenue may issue a clearance certificate only if the ~~registrant~~ licensee or applicant does not owe the state any uncontested delinquent taxes.

(b) For purposes of this subdivision, the following terms have the meanings given:

(1) "Taxes" are all taxes payable to the commissioner of revenue, including penalties and interest due on those taxes, and

(2) "Delinquent taxes" do not include a tax liability if:

(i) an administrative or court action that contests the amount or validity of the liability has been filed or served;

(ii) the appeal period to contest the tax liability has not expired; or

(iii) the licensee or applicant has entered into a payment agreement to pay the liability and is current with the payments.

(c) When a ~~registrant~~ licensee or applicant is required to obtain a clearance certificate under this subdivision, a contested case hearing must be held if the ~~registrant~~ licensee or applicant requests a hearing in writing to the commissioner of revenue within 30 days of the date of the notice provided in paragraph (a). The hearing must be held within 45 days of the date the commissioner of revenue refers the case to the Office of Administrative Hearings. Notwithstanding any law to the contrary, the licensee or applicant must be served with 20 days' notice in writing specifying the time and place of the hearing and the allegations against the registrant or applicant. The notice may be served personally or by mail.

(d) The board shall require all ~~registrants~~ licensees or applicants to provide their Social Security number and Minnesota business identification number on all ~~registration~~ license applications. Upon request of the commissioner of revenue, the board must provide to the commissioner of revenue a list of all ~~registrants~~ licensees and applicants, including their names and addresses, Social Security numbers, and business identification numbers. The commissioner of revenue may request a list of the ~~registrants~~ licensees and applicants no more than once each calendar year.

Subd. 8. **Limitation.** No board proceeding against a licensee shall be instituted unless commenced within seven years from the date of commission of some portion of the offense except for alleged violations of subdivision 1, paragraph (19), or subdivision 7.

Sec. 16. Minnesota Statutes 2008, section 147A.16, is amended to read:

**147A.16 FORMS OF DISCIPLINARY ACTION.**

When the board finds that a ~~registered~~ licensed physician assistant has violated a provision of this chapter, it may do one or more of the following:

(1) revoke the ~~registration~~ license;

(2) suspend the ~~registration~~ license;

(3) impose limitations or conditions on the physician assistant's practice, including limiting the scope of practice to designated field specialties; impose retraining or rehabilitation requirements; require practice under additional supervision; or condition continued practice on demonstration of



knowledge or skills by appropriate examination or other review of skill and competence;

(4) impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the physician assistant of any economic advantage gained by reason of the violation charged or to reimburse the board for the cost of the investigation and proceeding;

(5) order the physician assistant to provide unremunerated professional service under supervision at a designated public hospital, clinic, or other health care institution; or

(6) censure or reprimand the ~~registered~~ licensed physician assistant.

Upon judicial review of any board disciplinary action taken under this chapter, the reviewing court shall seal the administrative record, except for the board's final decision, and shall not make the administrative record available to the public.

Sec. 17. Minnesota Statutes 2008, section 147A.18, is amended to read:

**147A.18 DELEGATED AUTHORITY TO PRESCRIBE, DISPENSE, AND ADMINISTER DRUGS AND MEDICAL DEVICES.**

Subdivision 1. **Delegation.** (a) A supervising physician may delegate to a physician assistant who is ~~registered with~~ licensed by the board, certified by the National Commission on Certification of Physician Assistants or successor agency approved by the board, and who is under the supervising physician's supervision, the authority to prescribe, dispense, and administer legend drugs, ~~medical devices, and controlled substances, and medical devices~~ subject to the requirements in this section. The authority to dispense includes, but is not limited to, the authority to request, receive, and dispense sample drugs. This authority to dispense extends only to those drugs described in the written agreement developed under paragraph (b).

(b) The delegation agreement between the physician assistant and supervising physician ~~and any alternate supervising physicians~~ must include a statement by the supervising physician regarding delegation or nondelegation of the functions of prescribing, dispensing, and administering of legend drugs, controlled substances, and medical devices to the physician assistant. The statement must include a ~~protocol indicating~~ categories of drugs for which the supervising physician delegates prescriptive and dispensing authority including controlled substances when applicable. The delegation must be appropriate to the physician assistant's practice and within the scope of the physician assistant's training. Physician assistants who have been delegated the authority to prescribe, dispense, and administer legend drugs, controlled substances, and medical devices shall provide evidence of current certification by the National Commission on Certification of Physician Assistants or its successor agency when ~~registering or reregistering~~ applying for licensure or license renewal as physician assistants. Physician assistants who have been delegated the authority to prescribe controlled substances must ~~present evidence of the certification and also~~ hold a valid DEA certificate registration. Supervising physicians shall retrospectively review the prescribing, dispensing, and administering of legend ~~and controlled~~ drugs, controlled substances, and medical devices by physician assistants, when this authority has been delegated to the physician assistant as part of the physician-physician assistant delegation agreement ~~between the physician and the physician assistant. This review must take place as outlined in the internal protocol~~. The process and schedule for the review must be outlined in the physician-physician assistant delegation agreement.

(c) The board may establish by rule:

(1) a system of identifying physician assistants eligible to prescribe, administer, and dispense legend drugs and medical devices;

(2) a system of identifying physician assistants eligible to prescribe, administer, and dispense controlled substances;

(3) a method of determining the categories of ~~legend and controlled~~ legend and controlled drugs, controlled substances, and medical devices that each physician assistant is allowed to prescribe, administer, and dispense; and

(4) a system of transmitting to pharmacies a listing of physician assistants eligible to prescribe ~~legend and controlled~~ legend and controlled drugs, controlled substances, and medical devices.

Subd. 2. **Termination and reinstatement of prescribing authority.** ~~(a)~~ The authority of a physician assistant to prescribe, dispense, and administer legend drugs, controlled substances, and medical devices shall end immediately when:

(1) the physician-physician assistant delegation agreement is terminated;

(2) the authority to prescribe, dispense, and administer is terminated or withdrawn by the supervising physician; ~~or~~

(3) the physician assistant reverts to assistant's license is placed on inactive status, loses National Commission on Certification of Physician Assistants or successor agency certification, or loses or terminates registration status;

(4) the physician assistant loses National Commission on Certification of Physician Assistants or successor agency certification; or

(5) the physician assistant loses or terminates licensure status.

~~(b) The physician assistant must notify the board in writing within ten days of the occurrence of any of the circumstances listed in paragraph (a).~~

~~(c) Physician assistants whose authority to prescribe, dispense, and administer has been terminated shall reapply for reinstatement of prescribing authority under this section and meet any requirements established by the board prior to reinstatement of the prescribing, dispensing, and administering authority.~~

Subd. 3. **Other requirements and restrictions.** ~~(a) The supervising physician and the physician assistant must complete, sign, and date an internal protocol which lists each category of drug or medical device, or controlled substance the physician assistant may prescribe, dispense, and administer. The supervising physician and physician assistant shall submit the internal protocol to the board upon request. The supervising physician may amend the internal protocol as necessary, within the limits of the completed delegation form in subdivision 5. The supervising physician and physician assistant must sign and date any amendments to the internal protocol. Any amendments resulting in a change to an addition or deletion to categories delegated in the delegation form in subdivision 5 must be submitted to the board according to this chapter, along with the fee required.~~

~~(b) The supervising physician and physician assistant shall review delegation of prescribing,~~

~~dispensing, and administering authority on an annual basis at the time of reregistration. The internal protocol must be signed and dated by the supervising physician and physician assistant after review. Any amendments to the internal protocol resulting in changes to the delegation form in subdivision 5 must be submitted to the board according to this chapter, along with the fee required.~~

~~(e)~~ (a) Each prescription initiated by a physician assistant shall indicate the following:

- (1) the date of issue;
- (2) the name and address of the patient;
- (3) the name and quantity of the drug prescribed;
- (4) directions for use; and
- (5) the name and address of the prescribing physician assistant.

~~(d)~~ (b) In prescribing, dispensing, and administering legend drugs, controlled substances, and medical devices, including controlled substances as defined in section 152.01, subdivision 4, a physician assistant must conform with the agreement, chapter 151, and this chapter.

~~Subd. 4. **Notification of pharmacies.** (a) The board shall annually provide to the Board of Pharmacy and to registered pharmacies within the state a list of those physician assistants who are authorized to prescribe, administer, and dispense legend drugs and medical devices, or controlled substances.~~

~~(b) The board shall provide to the Board of Pharmacy a list of physician assistants authorized to prescribe legend drugs and medical devices every two months if additional physician assistants are authorized to prescribe or if physician assistants have authorization to prescribe withdrawn.~~

~~(c) The list must include the name, address, telephone number, and Minnesota registration number of the physician assistant, and the name, address, telephone number, and Minnesota license number of the supervising physician.~~

~~(d) The board shall provide the form in subdivision 5 to pharmacies upon request.~~

~~(e) The board shall make available prototype forms of the physician-physician assistant agreement, the internal protocol, the delegation form, and the addendum form.~~

~~Subd. 5. **Delegation form for physician assistant prescribing.** The delegation form for physician assistant prescribing must contain a listing by drug category of the legend drugs and controlled substances for which prescribing authority has been delegated to the physician assistant.~~

Sec. 18. Minnesota Statutes 2008, section 147A.19, is amended to read:

#### **147A.19 IDENTIFICATION REQUIREMENTS.**

Physician assistants ~~registered~~ licensed under this chapter shall keep their ~~registration~~ license available for inspection at their primary place of business and shall, when engaged in their professional activities, wear a name tag identifying themselves as a "physician assistant."

Sec. 19. Minnesota Statutes 2008, section 147A.20, is amended to read:

#### **147A.20 ~~PHYSICIAN AND PHYSICIAN~~ PHYSICIAN-PHYSICIAN ASSISTANT**

**AGREEMENT DOCUMENTS.**

**Subdivision 1. Physician-physician assistant delegation agreement.** (a) A physician assistant and supervising physician must sign ~~an~~ a physician-physician assistant delegation agreement which specifies scope of practice ~~and amount~~ and manner of supervision as required by the board. The agreement must contain:

- (1) a description of the practice setting;
- (2) ~~a statement of practice type/specialty;~~
- ~~(3)~~ a listing of categories of delegated duties;
- ~~(4)~~ (3) a description of supervision type, amount, and frequency; and

~~(5)~~ (4) a description of the process and schedule for review of prescribing, dispensing, and administering legend and controlled drugs and medical devices by the physician assistant authorized to prescribe.

(b) The agreement must be maintained by the supervising physician and physician assistant and made available to the board upon request. If there is a delegation of prescribing, administering, and dispensing of legend drugs, controlled substances, and medical devices, the agreement shall include ~~an internal protocol and delegation form~~ a description of the prescriptive authority delegated to the physician assistant. Physician assistants shall have a separate agreement for each place of employment. Agreements must be reviewed and updated on an annual basis. The supervising physician and physician assistant must maintain the physician-physician assistant delegation agreement, delegation form, and internal protocol at the address of record. ~~Copies shall be provided to the board upon request.~~

(c) Physician assistants must provide written notification to the board within 30 days of the following:

- (1) name change;
- (2) address of record change; and
- (3) telephone number of record change; and

~~(4) addition or deletion of alternate supervising physician provided that the information submitted includes, for an additional alternate physician, an affidavit of consent to act as an alternate supervising physician signed by the alternate supervising physician.~~

~~(d) Modifications requiring submission prior to the effective date are changes to the practice setting description which include:~~

- ~~(1) supervising physician change, excluding alternate supervising physicians; or~~
- ~~(2) delegation of prescribing, administering, or dispensing of legend drugs, controlled substances, or medical devices.~~

~~(e) The agreement must be completed and the practice setting description submitted to the board before providing medical care as a physician assistant.~~

(d) Any alternate supervising physicians must be identified in the physician-physician assistant delegation agreement, or a supplemental listing, and must sign the agreement attesting that they shall provide the physician assistant with supervision in compliance with this chapter, the delegation agreement, and board rules.

Subd. 2. **Notification of intent to practice.** A licensed physician assistant shall submit a notification of intent to practice to the board prior to beginning practice. The notification shall include the name, business address, and telephone number of the supervising physician and the physician assistant. Individuals who practice without submitting a notification of intent to practice shall be subject to disciplinary action under section 147A.13 for practicing without a license, unless the care is provided in response to a disaster or emergency situation pursuant to section 147A.23.

Sec. 20. Minnesota Statutes 2008, section 147A.21, is amended to read:

**147A.21 RULEMAKING AUTHORITY.**

The board shall adopt rules:

- (1) setting registration license fees;
- (2) setting renewal fees;
- (3) ~~setting fees for locum tenens permits;~~
- (4) setting fees for temporary registration licenses; and
- (5) (4) establishing renewal dates.

Sec. 21. Minnesota Statutes 2008, section 147A.23, is amended to read:

**147A.23 RESPONDING TO DISASTER SITUATIONS.**

(a) ~~A registered physician assistant or a physician assistant~~ duly licensed or credentialed in a United States jurisdiction or by a federal employer who is responding to a need for medical care created by an emergency according to section 604A.01, or a state or local disaster may render such care as the physician assistant is able trained to provide, under the physician assistant's license, ~~registration,~~ or credential, without the need of a ~~physician and physician~~ physician-physician assistant delegation agreement or a notice of intent to practice as required under section 147A.20. ~~Physician supervision, as required under section 147A.09, must be provided under the direction of a physician licensed under chapter 147 who is involved with the disaster response. The physician assistant must establish a temporary supervisory agreement with the physician providing supervision before rendering care. A physician assistant may provide emergency care without physician supervision or under the supervision that is available.~~

(b) The physician who provides supervision to a physician assistant while the physician assistant is rendering care ~~in a disaster~~ in accordance with this section may do so without meeting the requirements of section 147A.20.

(c) The supervising physician who otherwise provides supervision to a physician assistant under a ~~physician and physician~~ physician-physician assistant delegation agreement described in section 147A.20 shall not be held medically responsible for the care rendered by a physician assistant pursuant to paragraph (a). Services provided by a physician assistant under paragraph (a) shall be

considered outside the scope of the relationship between the supervising physician and the physician assistant.

Sec. 22. Minnesota Statutes 2008, section 147A.24, is amended to read:

**147A.24 CONTINUING EDUCATION REQUIREMENTS.**

Subdivision 1. **Amount of education required.** Applicants for ~~registration~~ license renewal or reregistration must either meet standards for continuing education through current certification by the National Commission on Certification of Physician Assistants, or its successor agency as approved by the board, or attest to and document provide evidence of successful completion of at least 50 contact hours of continuing education within the two years immediately preceding ~~registration license renewal, reregistration, or attest to and document~~ taking the national certifying examination required by this chapter within the past two years.

Subd. 2. **Type of education required.** ~~Approved~~ Continuing education is approved if it is equivalent to category 1 credit hours as defined by the American Osteopathic Association Bureau of Professional Education, the Royal College of Physicians and Surgeons of Canada, the American Academy of Physician Assistants, or by organizations that have reciprocal arrangements with the physician recognition award program of the American Medical Association.

Sec. 23. Minnesota Statutes 2008, section 147A.26, is amended to read:

**147A.26 PROCEDURES.**

The board shall establish, in writing, internal operating procedures for receiving and investigating complaints, accepting and processing applications, granting ~~registrations~~ licenses, and imposing enforcement actions. The written internal operating procedures may include procedures for sharing complaint information with government agencies in this and other states. Procedures for sharing complaint information must be consistent with the requirements for handling government data under chapter 13.

Sec. 24. Minnesota Statutes 2008, section 147A.27, is amended to read:

**147A.27 PHYSICIAN ASSISTANT ADVISORY COUNCIL.**

Subdivision 1. **Membership.** (a) The Physician Assistant Advisory Council is created and is composed of seven persons appointed by the board. The seven persons must include:

(1) two public members, as defined in section 214.02;

(2) three physician assistants ~~registered~~ licensed under this chapter who meet the criteria for a new applicant under section 147A.02; and

(3) two licensed physicians with experience supervising physician assistants.

(b) No member shall serve more than a ~~total of two~~ consecutive terms. If a member is appointed for a partial term and serves more than half of that term it shall be considered a full term. ~~Members serving on the council as of July 1, 2000, shall be allowed to complete their current terms.~~

Subd. 2. **Organization.** The council shall be organized and administered under section 15.059.

Subd. 3. **Duties.** The council shall advise the board regarding:

- (1) physician assistant ~~registration~~ licensure standards;
- (2) enforcement of grounds for discipline;
- (3) distribution of information regarding physician assistant ~~registration~~ licensure standards;
- (4) applications and recommendations of applicants for ~~registration~~ licensure or ~~registration~~ license renewal; ~~and~~
- (5) complaints and recommendations to the board regarding disciplinary matters and proceedings concerning applicants and ~~registrants~~ licensees according to sections 214.10; 214.103; and 214.13, subdivisions 6 and 7; ~~and~~
- (6) issues related to physician assistant practice and regulation.

The council shall perform other duties authorized for the council by chapter 214 as directed by the board.

Sec. 25. Minnesota Statutes 2008, section 169.345, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) For the purpose of section 168.021 and this section, the following terms have the meanings given them in this subdivision.

(b) "Health professional" means a licensed physician, ~~registered~~ licensed physician assistant, advanced practice registered nurse, or licensed chiropractor.

(c) "Long-term certificate" means a certificate issued for a period greater than 12 months but not greater than 71 months.

(d) "Organization certificate" means a certificate issued to an entity other than a natural person for a period of three years.

(e) "Permit" refers to a permit that is issued for a period of 30 days, in lieu of the certificate referred to in subdivision 3, while the application is being processed.

(f) "Physically disabled person" means a person who:

- (1) because of disability cannot walk without significant risk of falling;
- (2) because of disability cannot walk 200 feet without stopping to rest;
- (3) because of disability cannot walk without the aid of another person, a walker, a cane, crutches, braces, a prosthetic device, or a wheelchair;
- (4) is restricted by a respiratory disease to such an extent that the person's forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter;
- (5) has an arterial oxygen tension (PAO<sub>2</sub>) of less than 60 mm/Hg on room air at rest;
- (6) uses portable oxygen;
- (7) has a cardiac condition to the extent that the person's functional limitations are classified in severity as class III or class IV according to standards set by the American Heart Association;
- (8) has lost an arm or a leg and does not have or cannot use an artificial limb; or

(9) has a disability that would be aggravated by walking 200 feet under normal environmental conditions to an extent that would be life threatening.

(g) "Short-term certificate" means a certificate issued for a period greater than six months but not greater than 12 months.

(h) "Six-year certificate" means a certificate issued for a period of six years.

(i) "Temporary certificate" means a certificate issued for a period not greater than six months."

Page 2, after line 14, insert:

"Sec. 28. Minnesota Statutes 2008, section 253B.02, subdivision 7, is amended to read:

Subd. 7. **Examiner.** "Examiner" means a person who is knowledgeable, trained, and practicing in the diagnosis and assessment or in the treatment of the alleged impairment, and who is:

(1) a licensed physician;

(2) a licensed psychologist who has a doctoral degree in psychology or who became a licensed consulting psychologist before July 2, 1975; or

(3) an advanced practice registered nurse certified in mental health or a licensed physician assistant, except that only a physician or psychologist meeting these requirements may be appointed by the court as described by sections 253B.07, subdivision 3; 253B.092, subdivision 8, paragraph (b); 253B.17, subdivision 3; 253B.18, subdivision 2; and 253B.19, subdivisions 1 and 2, and only a physician or psychologist may conduct an assessment as described by Minnesota Rules of Criminal Procedure, rule 20.

Sec. 29. Minnesota Statutes 2008, section 253B.05, subdivision 2, is amended to read:

Subd. 2. **Peace or health officer authority.** (a) A peace or health officer may take a person into custody and transport the person to a licensed physician or treatment facility if the officer has reason to believe, either through direct observation of the person's behavior, or upon reliable information of the person's recent behavior and knowledge of the person's past behavior or psychiatric treatment, that the person is mentally ill or developmentally disabled and in danger of injuring self or others if not immediately detained. A peace or health officer or a person working under such officer's supervision, may take a person who is believed to be chemically dependent or is intoxicated in public into custody and transport the person to a treatment facility. If the person is intoxicated in public or is believed to be chemically dependent and is not in danger of causing self-harm or harm to any person or property, the peace or health officer may transport the person home. The peace or health officer shall make written application for admission of the person to the treatment facility. The application shall contain the peace or health officer's statement specifying the reasons for and circumstances under which the person was taken into custody. If danger to specific individuals is a basis for the emergency hold, the statement must include identifying information on those individuals, to the extent practicable. A copy of the statement shall be made available to the person taken into custody.

(b) As far as is practicable, a peace officer who provides transportation for a person placed in a facility under this subdivision may not be in uniform and may not use a vehicle visibly marked as a law enforcement vehicle.

(c) A person may be admitted to a treatment facility for emergency care and treatment under



this subdivision with the consent of the head of the facility under the following circumstances: (1) a written statement shall only be made by the following individuals who are knowledgeable, trained, and practicing in the diagnosis and treatment of mental illness or developmental disability; the medical officer, or the officer's designee on duty at the facility, including a licensed physician, a ~~registered~~ licensed physician assistant, or an advanced practice registered nurse who after preliminary examination has determined that the person has symptoms of mental illness or developmental disability and appears to be in danger of harming self or others if not immediately detained; or (2) a written statement is made by the institution program director or the director's designee on duty at the facility after preliminary examination that the person has symptoms of chemical dependency and appears to be in danger of harming self or others if not immediately detained or is intoxicated in public.

Sec. 30. Minnesota Statutes 2008, section 256B.0625, subdivision 28a, is amended to read:

Subd. 28a. **Registered Licensed physician assistant services.** Medical assistance covers services performed by a ~~registered~~ licensed physician assistant if the service is otherwise covered under this chapter as a physician service and if the service is within the scope of practice of a ~~registered~~ licensed physician assistant as defined in section 147A.09."

Page 3, after line 10, insert:

"Sec. 32. Minnesota Statutes 2008, section 256B.0751, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For purposes of sections 256B.0751 to 256B.0753, the following definitions apply.

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

(c) "Commissioners" means the commissioner of humans services and the commissioner of health, acting jointly.

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

(e) "Personal clinician" means a physician licensed under chapter 147, a physician assistant ~~registered~~ licensed and practicing under chapter 147A, or an advanced practice nurse licensed and registered to practice under chapter 148.

(f) "State health care program" means the medical assistance, MinnesotaCare, and general assistance medical care programs."

Page 16, delete section 16 and insert:

"Sec. 45. **REPEALER.**

Minnesota Statutes 2008, sections 147A.22; and 256B.5013, subdivisions 2, 3, and 5, are repealed.

Sec. 46. **EFFECTIVE DATE.**

Sections 1 to 25, 28 to 30, 32, and 45 are effective July 1, 2009."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Prettner Solon moved to amend H.F. No. 1760, as amended pursuant to Rule 45, adopted by the Senate May 8, 2009, as follows:

(The text of the amended House File is identical to S.F. No. 1526.)

Page 1, after line 10, insert:

"Section 1. Minnesota Statutes 2008, section 62M.09, subdivision 3a, is amended to read:

Subd. 3a. **Mental health and substance abuse reviews.** (a) A peer of the treating mental health or substance abuse provider or a physician must review requests for outpatient services in which the utilization review organization has concluded that a determination not to certify a mental health or substance abuse service for clinical reasons is appropriate, provided that any final determination not to certify treatment is made by a psychiatrist certified by the American Board of Psychiatry and Neurology and appropriately licensed in this state or by a doctoral-level psychologist licensed in this state if the treating provider is a psychologist.

(b) Notwithstanding the notification requirements of section 62M.05, a utilization review organization that has made an initial decision to certify in accordance with the requirements of section 62M.05 may elect to provide notification of a determination to continue coverage through facsimile or mail.

(c) This subdivision does not apply to determinations made in connection with policies issued by a health plan company that is assessed less than three percent of the total amount assessed by the Minnesota Comprehensive Health Association.

Sec. 2. Minnesota Statutes 2008, section 62U.09, subdivision 2, is amended to read:

Subd. 2. **Members.** (a) The Health Care Reform Review Council shall consist of ~~14~~ 15 members who are appointed as follows:

(1) two members appointed by the Minnesota Medical Association, at least one of whom must represent rural physicians;

(2) one member appointed by the Minnesota Nurses Association;

(3) two members appointed by the Minnesota Hospital Association, at least one of whom must be a rural hospital administrator;

(4) one member appointed by the Minnesota Academy of Physician Assistants;

(5) one member appointed by the Minnesota Business Partnership;

(6) one member appointed by the Minnesota Chamber of Commerce;

(7) one member appointed by the SEIU Minnesota State Council;

(8) one member appointed by the AFL-CIO;

(9) one member appointed by the Minnesota Council of Health Plans;

- (10) one member appointed by the Smart Buy Alliance;
- (11) one member appointed by the Minnesota Medical Group Management Association; ~~and~~
- (12) one consumer member appointed by AARP Minnesota; and
- (13) one member appointed by the Minnesota Psychological Association.

(b) If a member is no longer able or eligible to participate, a new member shall be appointed by the entity that appointed the outgoing member.

Sec. 3. Minnesota Statutes 2008, section 148.89, subdivision 5, is amended to read:

Subd. 5. **Practice of psychology.** "Practice of psychology" means the observation, description, evaluation, interpretation, or modification of human behavior by the application of psychological principles, methods, or procedures for any reason, including to prevent, eliminate, or manage symptomatic, maladaptive, or undesired behavior and to enhance interpersonal relationships, work, life and developmental adjustment, personal and organizational effectiveness, behavioral health, and mental health. The practice of psychology includes, but is not limited to, the following services, regardless of whether the provider receives payment for the services:

- (1) psychological research and teaching of psychology;
- (2) assessment, including psychological testing and other means of evaluating personal characteristics such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning;
- (3) a psychological report, whether written or oral, including testimony of a provider as an expert witness, concerning the characteristics of an individual or entity;
- (4) psychotherapy, including but not limited to, categories such as behavioral, cognitive, emotive, systems, psychophysiological, or insight-oriented therapies; counseling; hypnosis; and diagnosis and treatment of:
  - (i) mental and emotional disorder or disability;
  - (ii) alcohol and substance dependence or abuse;
  - (iii) disorders of habit or conduct;
  - (iv) the psychological aspects of physical illness or condition, accident, injury, or disability, including the psychological impact of medications;
  - (v) life adjustment issues, including work-related and bereavement issues; and
  - (vi) child, family, or relationship issues;
- (5) psychoeducational services and treatment; and
- (6) consultation and supervision."

Page 16, after line 27, insert:

"Sec. 19. DEADLINE FOR APPOINTMENT.

The Minnesota Psychological Association must complete the appointment required under Minnesota Statutes, section 62U.09, subdivision 2, paragraph (a), clause (13), no later than October 1, 2009."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Lynch moved to amend H.F. No. 1760, as amended pursuant to Rule 45, adopted by the Senate May 8, 2009, as follows:

(The text of the amended House File is identical to S.F. No. 1526.)

Page 1, after line 10, insert:

"Section 1. Minnesota Statutes 2008, section 43A.318, subdivision 2, is amended to read:

Subd. 2. **Program creation; general provisions.** (a) The commissioner may administer a program to make long-term care coverage available to eligible persons. The commissioner may determine the program's funding arrangements, request bids from qualified vendors, and negotiate and enter into contracts with qualified vendors. Contracts are not subject to the requirements of section 16C.16 or 16C.19. Contracts must be for a uniform term of at least one year, but may be made automatically renewable from term to term in the absence of notice of termination by either party. The program may not be self-insured until the commissioner has completed an actuarial study of the program and reported the results of the study to the legislature and self-insurance has been specifically authorized by law.

(b) The program may provide coverage for home, community, and institutional long-term care and any other benefits as determined by the commissioner. Coverage is optional. The enrolled eligible person must pay the full cost of the coverage.

(c) The commissioner shall promote activities that attempt to raise awareness of the need for long-term care insurance among residents of the state and encourage the increased prevalence of long-term care coverage. These activities must include the sharing of knowledge gained in the development of the program.

(d) The commissioner may employ and contract with persons and other entities to perform the duties under this section and may determine their duties and compensation consistent with this chapter.

(e) The benefits provided under this section are not terms and conditions of employment as defined under section 179A.03, subdivision 19, and are not subject to collective bargaining.

(f) The commissioner shall establish underwriting criteria for entry of all eligible persons into the program. Eligible persons who would be immediately eligible for benefits may not enroll.

(g) Eligible persons who meet underwriting criteria may enroll in the program upon hiring and at other times established by the commissioner.

(h) An eligible person enrolled in the program may continue to participate in the program even

if an event, such as termination of employment, changes the person's employment status.

(i) Participating public employee pension plans and public employers may provide automatic pension or payroll deduction for payment of long-term care insurance premiums to qualified vendors contracted with under this section.

(j) The premium charged to program enrollees must include an administrative fee to cover all program expenses incurred in addition to the cost of coverage. All fees collected are appropriated to the commissioner for the purpose of administrating the program.

(k) Public employees of local units of government including but not limited to townships, municipalities, cities, and counties may buy into the long-term care insurance under this section."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Prettner Solon moved to amend H.F. No. 1760, as amended pursuant to Rule 45, adopted by the Senate May 8, 2009, as follows:

(The text of the amended House File is identical to S.F. No. 1526.)

Page 1, after line 10, insert:

"Section 1. Minnesota Statutes 2008, section 150A.01, subdivision 8, is amended to read:

Subd. 8. **Registered Licensed dental assistant.** "Registered Licensed dental assistant" means a person ~~registered licensed~~ pursuant to section 150A.06.

Sec. 2. Minnesota Statutes 2008, section 150A.02, subdivision 1, is amended to read:

Subdivision 1. **Generally.** There is hereby created a Board of Dentistry whose duty it shall be to carry out the purposes and enforce the provisions of sections 150A.01 to 150A.12. The board shall consist of two public members as defined by section 214.02, five qualified resident dentists, one qualified resident ~~registered licensed~~ dental assistant, and one qualified resident dental hygienist appointed by the governor. Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in sections 214.07 to 214.09. The provision of staff, administrative services and office space; the review and processing of board complaints; the setting of board fees; and other provisions relating to board operations shall be as provided in chapter 214. Each board member who is a dentist, ~~registered licensed~~ dental assistant, or dental hygienist shall have been lawfully in active practice in this state for five years immediately preceding appointment; and no board member shall be eligible for appointment to more than two consecutive four-year terms, and members serving on the board at the time of the enactment hereof shall be eligible to reappointment provided they shall not have served more than nine consecutive years at the expiration of the term to which they are to be appointed. At least 90 days prior to the expiration of the terms of dentists, ~~registered licensed~~ dental assistants, or dental hygienists, the Minnesota Dental Association, Minnesota Dental Assistants Association, or the Minnesota State Dental Hygiene Association shall recommend to the governor for each term expiring not less than two dentists, two ~~registered licensed~~ dental assistants, or two dental hygienists, respectively, who are qualified to serve on the board, and from the list so

recommended the governor may appoint members to the board for the term of four years, the appointments to be made within 30 days after the expiration of the terms. Within 60 days after the occurrence of a dentist, ~~registered~~ licensed dental assistant or dental hygienist vacancy, prior to the expiration of the term, in the board, the Minnesota Dental Association, the Minnesota Dental Assistants Association, or the Minnesota State Dental Hygiene Association shall recommend to the governor not less than two dentists, two ~~registered~~ licensed dental assistants, or two dental hygienists, who are qualified to serve on the board and from the list so recommended the governor, within 30 days after receiving such list of dentists, may appoint one member to the board for the unexpired term occasioned by such vacancy. Any appointment to fill a vacancy shall be made within 90 days after the occurrence of such vacancy. The first four-year term of the dental hygienist and of the ~~registered~~ licensed dental assistant shall commence on the first Monday in January, 1977.

Sec. 3. Minnesota Statutes 2008, section 150A.05, subdivision 1, is amended to read:

Subdivision 1. **Practice of dentistry.** A person shall be deemed to be practicing dentistry within the meaning of sections 150A.01 to 150A.12:

(1) who uses a dental degree, or designation, or card, device, directory, sign, or other media whereby the person represents an ability to diagnose, treat, prescribe, or operate for any disease, pain, deformity, deficiency, injury, or physical condition of the human tooth, teeth, alveolar process, gums or jaw, or adjacent or associated structures;

(2) who is a manager, proprietor, operator or conductor of a place where dental operations are performed;

(3) who performs dental operations of any kind gratuitously, or for a fee, gift, compensation or reward, paid or to be paid, to any person or agency;

(4) who uses a roentgen or X-ray machine for dental treatment, roentgenograms or for dental diagnostic purposes;

(5) who extracts a human tooth or teeth, or corrects or attempts to correct malpositions of the human teeth or jaws;

(6) who offers and undertakes, by any means or method, to diagnose, treat or remove stains or accretions from human teeth or jaws;

(7) who takes impressions of the human tooth, teeth, or jaws or performs any phase of any operation incident to the replacement of a part of a tooth, a tooth, teeth or associated tissues by means of a filling, a crown, a bridge, a denture or other appliance;

(8) who furnishes, supplies, constructs, reproduces, repairs, or offers to furnish, supply, construct, reproduce or repair prosthetic dentures or plates, bridges or other substitutes for natural teeth, to the user or prospective user thereof; ~~or~~

(9) who performs any clinical operation included in the curricula of recognized dental schools and colleges; ~~or~~

(10) who dispenses tooth whitening agents or undertakes to whiten or bleach teeth by any means or method, unless the person is:

(i) dispensing or using a product that may be purchased over the counter for a person's own use;

or

(ii) authorized by the regulations of the board to engage in such activities without being a licensed dentist.

Sec. 4. Minnesota Statutes 2008, section 150A.05, subdivision 2, is amended to read:

Subd. 2. **Exemptions and exceptions of certain practices and operations.** Sections 150A.01 to 150A.12 do not apply to:

(1) the practice of dentistry or dental hygiene in any branch of the armed services of the United States, the United States Public Health Service, or the United States Veterans Administration;

(2) the practice of dentistry, dental hygiene, or dental assisting by undergraduate dental students, dental hygiene students, and dental assisting students of the University of Minnesota, schools of dental hygiene, or schools of dental assisting approved by the board, when acting under the ~~direction and indirect~~ supervision of a Minnesota licensed dentist or a and under the instruction of a licensed dentist, licensed dental hygienist acting as an instructor, or licensed dental assistant;

(3) the practice of dentistry by licensed dentists of other states or countries while appearing as clinicians under the auspices of a duly approved dental school or college, or a reputable dental society, or a reputable dental study club composed of dentists;

(4) the actions of persons while they are taking examinations for licensure ~~or registration~~ administered or approved by the board pursuant to sections 150A.03, subdivision 1, and 150A.06, subdivisions 1, 2, and 2a;

(5) the practice of dentistry by dentists and dental hygienists licensed by other states during their functioning as examiners responsible for conducting licensure ~~or registration~~ examinations administered by regional and national testing agencies with whom the board is authorized to affiliate and participate under section 150A.03, subdivision 1, and the practice of dentistry by the regional and national testing agencies during their administering examinations pursuant to section 150A.03, subdivision 1;

(6) the use of X-rays or other diagnostic imaging modalities for making radiographs or other similar records in a hospital under the supervision of a physician or dentist or by a person who is credentialed to use diagnostic imaging modalities or X-ray machines for dental treatment, roentgenograms, or dental diagnostic purposes by a credentialing agency other than the Board of Dentistry; or

(7) the service, other than service performed directly upon the person of a patient, of constructing, altering, repairing, or duplicating any denture, partial denture, crown, bridge, splint, orthodontic, prosthetic, or other dental appliance, when performed according to a written work order from a licensed dentist in accordance with section 150A.10, subdivision 3.

Sec. 5. Minnesota Statutes 2008, section 150A.06, subdivision 2a, is amended to read:

Subd. 2a. **Registered Licensed dental assistant.** A person of good moral character, who has graduated from a dental assisting program accredited by the Commission on Dental Accreditation of the American Dental Association, may apply for ~~registration~~ licensure. The applicant must submit an application and fee as prescribed by the board and the diploma or certificate of dental assisting. In the

case of examinations conducted pursuant to section 150A.03, subdivision 1, applicants shall take the examination before applying to the board for ~~registration~~ licensure. The examination shall include an examination of the applicant's knowledge of the laws of Minnesota relating to dentistry and the rules of the board. An applicant is ineligible to retake the ~~registration~~ licensure examination required by the board after failing it twice until further education and training are obtained as specified by board rule. A separate, nonrefundable fee may be charged for each time a person applies. An applicant who passes the examination in compliance with subdivision 2b, abides by professional ethical conduct requirements, and meets all the other requirements of the board shall be ~~registered~~ licensed as a dental assistant.

Sec. 6. Minnesota Statutes 2008, section 150A.06, subdivision 2b, is amended to read:

Subd. 2b. **Examination.** When the Board of Dentistry administers the examination for licensure ~~or registration~~, only those board members or board-appointed deputy examiners qualified for the particular examination may administer it. An examination which the board requires as a condition of licensure ~~or registration~~ must have been taken within the five years before the board receives the application for licensure ~~or registration~~.

Sec. 7. Minnesota Statutes 2008, section 150A.06, subdivision 2c, is amended to read:

Subd. 2c. **Guest license ~~or registration~~.** (a) The board shall grant a guest license to practice as a dentist ~~or~~ dental hygienist, ~~or a guest registration to practice as a~~ licensed dental assistant if the following conditions are met:

(1) the dentist, dental hygienist, or dental assistant is currently licensed ~~or registered~~ in good standing in North Dakota, South Dakota, Iowa, or Wisconsin;

(2) the dentist, dental hygienist, or dental assistant is currently engaged in the practice of that person's respective profession in North Dakota, South Dakota, Iowa, or Wisconsin;

(3) the dentist, dental hygienist, or dental assistant will limit that person's practice to a public health setting in Minnesota that (i) is approved by the board; (ii) was established by a nonprofit organization that is tax exempt under chapter 501(c)(3) of the Internal Revenue Code of 1986; and (iii) provides dental care to patients who have difficulty accessing dental care;

(4) the dentist, dental hygienist, or dental assistant agrees to treat indigent patients who meet the eligibility criteria established by the clinic; and

(5) the dentist, dental hygienist, or dental assistant has applied to the board for a guest license ~~or registration~~ and has paid a nonrefundable license fee to the board not to exceed \$75.

(b) A guest license ~~or registration~~ must be renewed annually with the board and an annual renewal fee not to exceed \$75 must be paid to the board.

(c) A dentist, dental hygienist, or dental assistant practicing under a guest license ~~or registration~~ under this subdivision shall have the same obligations as a dentist, dental hygienist, or dental assistant who is licensed in Minnesota and shall be subject to the laws and rules of Minnesota and the regulatory authority of the board. If the board suspends or revokes the guest license ~~or registration~~ of, or otherwise disciplines, a dentist, dental hygienist, or dental assistant practicing under this subdivision, the board shall promptly report such disciplinary action to the dentist's, dental hygienist's, or dental assistant's regulatory board in the border state.



Sec. 8. Minnesota Statutes 2008, section 150A.06, subdivision 2d, is amended to read:

Subd. 2d. **Continuing education and professional development waiver.** (a) The board shall grant a waiver to the continuing education requirements under this chapter for a licensed dentist, licensed dental hygienist, or ~~registered~~ licensed dental assistant who documents to the satisfaction of the board that the dentist, dental hygienist, or ~~registered~~ licensed dental assistant has retired from active practice in the state and limits the provision of dental care services to those offered without compensation in a public health, community, or tribal clinic or a nonprofit organization that provides services to the indigent or to recipients of medical assistance, general assistance medical care, or MinnesotaCare programs.

(b) The board may require written documentation from the volunteer and retired dentist, dental hygienist, or ~~registered~~ licensed dental assistant prior to granting this waiver.

(c) The board shall require the volunteer and retired dentist, dental hygienist, or ~~registered~~ licensed dental assistant to meet the following requirements:

(1) a licensee or ~~registrant~~ seeking a waiver under this subdivision must complete and document at least five hours of approved courses in infection control, medical emergencies, and medical management for the continuing education cycle; and

(2) provide documentation of ~~certification in advanced or basic cardiac life support recognized by current CPR certification from completion of the American Heart Association healthcare provider course, the American Red Cross professional rescuer course, or an equivalent entity.~~

Sec. 9. Minnesota Statutes 2008, section 150A.06, subdivision 4a, is amended to read:

Subd. 4a. **Appeal of denial of application.** A person whose application for licensure or ~~registration~~ by credentials has been denied may appeal the decision to the board. The board shall establish an appeals process and inform a denied candidate of the right to appeal and the process for filing the appeal.

Sec. 10. Minnesota Statutes 2008, section 150A.06, subdivision 5, is amended to read:

Subd. 5. **Fraud in securing licenses or registrations.** Every person implicated in employing fraud or deception in applying for or securing a license or ~~registration~~ to practice dentistry, dental hygiene, or dental assisting or in annually renewing a license or ~~registration~~ under sections 150A.01 to 150A.12 is guilty of a gross misdemeanor.

Sec. 11. Minnesota Statutes 2008, section 150A.06, subdivision 7, is amended to read:

Subd. 7. **Additional remedies for licensure and registration.** On a case-by-case basis, for initial or renewal of licensure or ~~registration~~, the board may add additional remedies for deficiencies found based on the applicant's performance, character, and education.

Sec. 12. Minnesota Statutes 2008, section 150A.06, subdivision 8, is amended to read:

Subd. 8. **Registration Licensure by credentials.** (a) Any dental assistant may, upon application and payment of a fee established by the board, apply for ~~registration~~ licensure based on an evaluation of the applicant's education, experience, and performance record in lieu of completing a board-approved dental assisting program for expanded functions as defined in rule, and may be interviewed by the board to determine if the applicant:

(1) has graduated from an accredited dental assisting program accredited by the Commission of Dental Accreditation of the American Dental Association, or is currently certified by the Dental Assisting National Board;

(2) is not subject to any pending or final disciplinary action in another state or Canadian province, or if not currently certified or registered, previously had a certification or registration in another state or Canadian province in good standing that was not subject to any final or pending disciplinary action at the time of surrender;

(3) is of good moral character and abides by professional ethical conduct requirements;

(4) at board discretion, has passed a board-approved English proficiency test if English is not the applicant's primary language; and

(5) has met all expanded functions curriculum equivalency requirements of a Minnesota board-approved dental assisting program.

(b) The board, at its discretion, may waive specific ~~registration~~ licensure requirements in paragraph (a).

(c) An applicant who fulfills the conditions of this subdivision and demonstrates the minimum knowledge in dental subjects required for ~~registration~~ licensure under subdivision 2a must be ~~registered~~ licensed to practice the applicant's profession.

(d) If the applicant does not demonstrate the minimum knowledge in dental subjects required for ~~registration~~ licensure under subdivision 2a, the application must be denied. If ~~registration~~ licensure is denied, the board may notify the applicant of any specific remedy that the applicant could take which, when passed, would qualify the applicant for ~~registration~~ licensure. A denial does not prohibit the applicant from applying for ~~registration~~ licensure under subdivision 2a.

(e) A candidate whose application has been denied may appeal the decision to the board according to subdivision 4a.

Sec. 13. Minnesota Statutes 2008, section 150A.08, subdivision 1, is amended to read:

Subdivision 1. **Grounds.** The board may refuse or by order suspend or revoke, limit or modify by imposing conditions it deems necessary, any license to practice dentistry ~~or~~ or dental hygiene, or ~~the registration of any dental assistant assisting~~ upon any of the following grounds:

(1) fraud or deception in connection with the practice of dentistry or the securing of a license ~~or~~ or ~~registration~~ certificate;

(2) conviction, including a finding or verdict of guilt, an admission of guilt, or a no contest plea, in any court of a felony or gross misdemeanor reasonably related to the practice of dentistry as evidenced by a certified copy of the conviction;

(3) conviction, including a finding or verdict of guilt, an admission of guilt, or a no contest plea, in any court of an offense involving moral turpitude as evidenced by a certified copy of the conviction;

(4) habitual overindulgence in the use of intoxicating liquors;

(5) improper or unauthorized prescription, dispensing, administering, or personal or other use of any legend drug as defined in chapter 151, of any chemical as defined in chapter 151, or of any controlled substance as defined in chapter 152;

(6) conduct unbecoming a person licensed to practice dentistry ~~or~~, dental hygiene, or ~~registered as a dental assistant~~ assisting, or conduct contrary to the best interest of the public, as such conduct is defined by the rules of the board;

(7) gross immorality;

(8) any physical, mental, emotional, or other disability which adversely affects a dentist's, dental hygienist's, or ~~registered~~ dental assistant's ability to perform the service for which the person is licensed ~~or registered~~;

(9) revocation or suspension of a license, ~~registration~~, or equivalent authority to practice, or other disciplinary action or denial of a license ~~or registration~~ application taken by a licensing, ~~registering~~, or credentialing authority of another state, territory, or country as evidenced by a certified copy of the licensing authority's order, if the disciplinary action or application denial was based on facts that would provide a basis for disciplinary action under this chapter and if the action was taken only after affording the credentialed person or applicant notice and opportunity to refute the allegations or pursuant to stipulation or other agreement;

(10) failure to maintain adequate safety and sanitary conditions for a dental office in accordance with the standards established by the rules of the board;

(11) employing, assisting, or enabling in any manner an unlicensed person to practice dentistry;

(12) failure or refusal to attend, testify, and produce records as directed by the board under subdivision 7;

(13) violation of, or failure to comply with, any other provisions of sections 150A.01 to 150A.12, the rules of the Board of Dentistry, or any disciplinary order issued by the board, sections 144.291 to 144.298 or 595.02, subdivision 1, paragraph (d), or for any other just cause related to the practice of dentistry. Suspension, revocation, modification or limitation of any license shall not be based upon any judgment as to therapeutic or monetary value of any individual drug prescribed or any individual treatment rendered, but only upon a repeated pattern of conduct;

(14) knowingly providing false or misleading information that is directly related to the care of that patient unless done for an accepted therapeutic purpose such as the administration of a placebo; or

(15) aiding suicide or aiding attempted suicide in violation of section 609.215 as established by any of the following:

(i) a copy of the record of criminal conviction or plea of guilty for a felony in violation of section 609.215, subdivision 1 or 2;

(ii) a copy of the record of a judgment of contempt of court for violating an injunction issued under section 609.215, subdivision 4;

(iii) a copy of the record of a judgment assessing damages under section 609.215, subdivision 5; or

(iv) a finding by the board that the person violated section 609.215, subdivision 1 or 2. The board shall investigate any complaint of a violation of section 609.215, subdivision 1 or 2.

Sec. 14. Minnesota Statutes 2008, section 150A.08, subdivision 3, is amended to read:

Subd. 3. **Reinstatement.** Any licensee ~~or registrant~~ whose license ~~or registration~~ has been suspended or revoked may have the license ~~or registration~~ reinstated or a new license ~~or registration~~ issued, as the case may be, when the board deems the action is warranted.

Sec. 15. Minnesota Statutes 2008, section 150A.08, subdivision 3a, is amended to read:

Subd. 3a. **Costs; additional penalties.** (a) The board may impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive a licensee ~~or registrant~~ of any economic advantage gained by reason of the violation, to discourage similar violations by the licensee ~~or registrant~~ or any other licensee ~~or registrant~~, or to reimburse the board for the cost of the investigation and proceeding, including, but not limited to, fees paid for services provided by the Office of Administrative Hearings, legal and investigative services provided by the Office of the Attorney General, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and travel costs and expenses incurred by board staff and board members.

(b) In addition to costs and penalties imposed under paragraph (a), the board may also:

- (1) order the dentist, dental hygienist, or dental assistant to provide unremunerated service;
- (2) censure or reprimand the dentist, dental hygienist, or dental assistant; or
- (3) any other action as allowed by law and justified by the facts of the case.

Sec. 16. Minnesota Statutes 2008, section 150A.08, subdivision 5, is amended to read:

Subd. 5. **Medical examinations.** If the board has probable cause to believe that a dentist, dental hygienist, ~~registered~~ dental assistant, or applicant engages in acts described in subdivision 1, clause (4) or (5), or has a condition described in subdivision 1, clause (8), it shall direct the dentist, dental hygienist, assistant, or applicant to submit to a mental or physical examination or a chemical dependency assessment. For the purpose of this subdivision, every dentist, hygienist, or dental assistant licensed ~~or registered~~ under this chapter or person submitting an application for a license ~~or registration~~ is deemed to have given consent to submit to a mental or physical examination when directed in writing by the board and to have waived all objections in any proceeding under this section to the admissibility of the examining physician's testimony or examination reports on the ground that they constitute a privileged communication. Failure to submit to an examination without just cause may result in an application being denied or a default and final order being entered without the taking of testimony or presentation of evidence, other than evidence which may be submitted by affidavit, that the licensee, ~~registrant~~, or applicant did not submit to the examination. A dentist, dental hygienist, ~~registered~~ dental assistant, or applicant affected under this section shall at reasonable intervals be afforded an opportunity to demonstrate ability to start or resume the competent practice of dentistry or perform the duties of a dental hygienist or ~~registered~~ dental assistant with reasonable skill and safety to patients. In any proceeding under this subdivision, neither the record of proceedings nor the orders entered by the board is admissible, is subject to subpoena, or may be used against the dentist, dental hygienist, ~~registered~~ dental assistant, or applicant in any proceeding not commenced by the board. Information obtained under this

subdivision shall be classified as private pursuant to the Minnesota Government Data Practices Act.

Sec. 17. Minnesota Statutes 2008, section 150A.08, subdivision 6, is amended to read:

Subd. 6. **Medical records.** Notwithstanding contrary provisions of sections 13.384 and 144.651 or any other statute limiting access to medical or other health data, the board may obtain medical data and health records of a licensee, ~~registrant~~, or applicant without the licensee's, ~~registrant's~~, or applicant's consent if the information is requested by the board as part of the process specified in subdivision 5. The medical data may be requested from a provider, as defined in section 144.291, subdivision 2, paragraph (h), an insurance company, or a government agency, including the Department of Human Services. A provider, insurance company, or government agency shall comply with any written request of the board under this subdivision and shall not be liable in any action for damages for releasing the data requested by the board if the data are released pursuant to a written request under this subdivision, unless the information is false and the provider giving the information knew, or had reason to believe, the information was false. Information obtained under this subdivision shall be classified as private under the Minnesota Government Data Practices Act.

Sec. 18. Minnesota Statutes 2008, section 150A.08, subdivision 8, is amended to read:

Subd. 8. **Suspension of license.** In addition to any other remedy provided by law, the board may, through its designated board members pursuant to section 214.10, subdivision 2, temporarily suspend a license ~~or registration~~ without a hearing if the board finds that the licensee ~~or registrant~~ has violated a statute or rule which the board is empowered to enforce and continued practice by the licensee ~~or registrant~~ would create an imminent risk of harm to others. The suspension shall take effect upon written notice to the licensee ~~or registrant~~ served by first class mail specifying the statute or rule violated, and the time, date, and place of the hearing before the board. If the notice is returned by the post office, the notice shall be effective upon reasonable attempts to locate and serve the licensee ~~or registrant~~. Within ten days of service of the notice, the board shall hold a hearing before its own members on the sole issue of whether there is a reasonable basis to continue, modify, or lift the suspension. Evidence presented by the board, ~~or licensee, or registrant~~, shall be in affidavit form only. The licensee ~~or registrant~~ or counsel of the licensee ~~or registrant~~ may appear for oral argument. Within five working days after the hearing, the board shall issue its order and, if the suspension is continued, the board shall schedule a disciplinary hearing to be held pursuant to the Administrative Procedure Act within 45 days of issuance of the order. The administrative law judge shall issue a report within 30 days of the closing of the contested case hearing record. The board shall issue a final order within 30 days of receiving that report. The board may allow a person who was licensed by any state to practice dentistry and whose license has been suspended to practice dentistry under the supervision of a licensed dentist for the purpose of demonstrating competence and eligibility for reinstatement.

Sec. 19. Minnesota Statutes 2008, section 150A.081, is amended to read:

#### **150A.081 ACCESS TO MEDICAL DATA.**

Subdivision 1. **Access to data on licensee ~~or registrant~~.** When the board has probable cause to believe that a licensee's ~~or registrant's~~ condition meets a ground listed in section 150A.08, subdivision 1, clause (4) or (8), it may, notwithstanding sections 13.384, 144.651, or any other law limiting access to medical data, obtain medical or health records on the licensee ~~or registrant~~ without the licensee's ~~or registrant's~~ consent. The medical data may be requested from a provider, as defined in section 144.291, subdivision 2, paragraph (h), an insurance company, or a government

agency. A provider, insurance company, or government agency shall comply with a written request of the board under this subdivision and is not liable in any action for damages for releasing the data requested by the board if the data are released under the written request, unless the information is false and the entity providing the information knew, or had reason to believe, the information was false.

Subd. 2. **Access to data on patients.** The board has access to medical records of a patient treated by a licensee ~~or registrant~~ under review if the patient signs a written consent permitting access. If the patient has not given consent, the licensee ~~or registrant~~ must delete data from which a patient may be identified before releasing medical records to the board.

Subd. 3. **Data classification; release of certain health data not required.** Information obtained under this section is classified as private data on individuals under chapter 13. Under this section, the commissioner of health is not required to release health data collected and maintained under section 13.3805, subdivision 2.

Sec. 20. Minnesota Statutes 2008, section 150A.09, subdivision 1, is amended to read:

Subdivision 1. **Registration information and procedure.** On or before the license ~~or registration~~ certificate expiration date every licensed dentist, dental hygienist, and ~~registered~~ dental assistant shall transmit to the executive secretary of the board, pertinent information required by the board, together with the fee established by the board. At least 30 days before a license ~~or registration~~ certificate expiration date, the board shall send a written notice stating the amount and due date of the fee and the information to be provided to every licensed dentist, dental hygienist, and ~~registered~~ dental assistant.

Sec. 21. Minnesota Statutes 2008, section 150A.09, subdivision 3, is amended to read:

Subd. 3. **Current address, change of address.** Every dentist, dental hygienist, and ~~registered~~ dental assistant shall maintain with the board a correct and current mailing address. For dentists engaged in the practice of dentistry, the address shall be that of the location of the primary dental practice. Within 30 days after changing addresses, every dentist, dental hygienist, and ~~registered~~ dental assistant shall provide the board written notice of the new address either personally or by first class mail.

Sec. 22. Minnesota Statutes 2008, section 150A.091, subdivision 2, is amended to read:

Subd. 2. **Application fees.** Each applicant ~~for licensure or registration~~ shall submit with a license or ~~registration~~ permit application a nonrefundable fee in the following amounts in order to administratively process an application:

- (1) dentist, \$140;
- (2) limited faculty dentist, \$140;
- (3) resident dentist, \$55;
- (4) dental hygienist, \$55;
- (5) ~~registered~~ licensed dental assistant, ~~\$35~~ \$55; and
- (6) dental assistant with a ~~limited registration~~ permit as described in Minnesota Rules, part

3100.8500, subpart 3, \$15.

Sec. 23. Minnesota Statutes 2008, section 150A.091, subdivision 3, is amended to read:

Subd. 3. **Initial license or registration permit fees.** Along with the application fee, each of the following ~~licensees or registrants~~ applicants shall submit a separate prorated initial license or ~~registration permit fee~~. The prorated initial fee shall be established by the board based on the number of months of the ~~licensee's or registrant's~~ applicant's initial term as described in Minnesota Rules, part 3100.1700, subpart 1a, not to exceed the following monthly fee amounts:

- (1) dentist, \$14 times the number of months of the initial term;
- (2) dental hygienist, \$5 times the number of months of the initial term;
- (3) ~~registered~~ licensed dental assistant, \$3 times the number of months of initial term; and
- (4) dental assistant with a ~~limited registration~~ permit as described in Minnesota Rules, part 3100.8500, subpart 3, \$1 times the number of months of the initial term.

Sec. 24. Minnesota Statutes 2008, section 150A.091, subdivision 5, is amended to read:

Subd. 5. **Biennial license or registration permit fees.** Each of the following ~~licensees or registrants~~ applicants shall submit with a biennial license or ~~registration permit~~ renewal application a fee as established by the board, not to exceed the following amounts:

- (1) dentist, \$336;
- (2) dental hygienist, \$118;
- (3) ~~registered~~ licensed dental assistant, \$80; and
- (4) dental assistant with a ~~limited registration~~ permit as described in Minnesota Rules, part 3100.8500, subpart 3, \$24.

Sec. 25. Minnesota Statutes 2008, section 150A.091, subdivision 7, is amended to read:

Subd. 7. **Biennial license or registration permit late fee.** Applications for renewal of any license or ~~registration permit~~ received after the time specified in Minnesota Rules, part 3100.1700, must be assessed a late fee equal to 25 percent of the biennial renewal fee.

Sec. 26. Minnesota Statutes 2008, section 150A.091, subdivision 8, is amended to read:

Subd. 8. **Duplicate license or registration certificate fee.** Each ~~licensee or registrant~~ applicant shall submit, with a request for issuance of a duplicate of the original license or ~~registration~~, or of an annual or biennial renewal of ~~it~~ certificate for a license or permit, a fee in the following amounts:

- (1) original dentist ~~or~~, dental hygiene, or dental assistant license, \$35; and
- (2) ~~initial and renewal registration certificates and license~~ annual or biennial renewal certificates, \$10.

Sec. 27. Minnesota Statutes 2008, section 150A.091, subdivision 9, is amended to read:

Subd. 9. **Licensure and registration by credentials.** Each applicant for licensure as a dentist ~~or~~,

dental hygienist, or ~~for registration as a registered~~ dental assistant by credentials pursuant to section 150A.06, subdivisions 4 and 8, and Minnesota Rules, part 3100.1400, shall submit with the license ~~or registration~~ application a fee in the following amounts:

- (1) dentist, \$725;
- (2) dental hygienist, \$175; and
- (3) ~~registered~~ dental assistant, \$35.

Sec. 28. Minnesota Statutes 2008, section 150A.091, is amended by adding a subdivision to read:

Subd. 9a. **Credential review; nonaccredited dental institution.** Applicants who have graduated from a nonaccredited dental college desiring licensure as a dentist pursuant to section 150A.06, subdivision 1, shall submit an application for credential review and an application fee not to exceed the amount of \$200.

Sec. 29. Minnesota Statutes 2008, section 150A.091, is amended by adding a subdivision to read:

Subd. 9b. **Limited general license.** Each applicant for licensure as a limited general dentist pursuant to section 150A.06, subdivision 9, shall submit the applicable fees established by the board not to exceed the following amounts:

- (1) initial limited general license application, \$140;
- (2) annual limited general license renewal application, \$155; and
- (3) late fee assessment for renewal application equal to 50 percent of the annual limited general license renewal fee.

Sec. 30. Minnesota Statutes 2008, section 150A.091, subdivision 10, is amended to read:

Subd. 10. **Reinstatement fee.** No dentist, dental hygienist, or ~~registered~~ dental assistant whose license ~~or registration~~ has been suspended or revoked may have the license ~~or registration~~ reinstated or a new license ~~or registration~~ issued until a fee has been submitted to the board in the following amounts:

- (1) dentist, \$140;
- (2) dental hygienist, \$55; and
- (3) ~~registered~~ dental assistant, \$35.

Sec. 31. Minnesota Statutes 2008, section 150A.091, subdivision 11, is amended to read:

Subd. 11. **Certificate application fee for anesthesia/sedation.** Each dentist shall submit with a general anesthesia or ~~conscious~~ moderate sedation application or a contracted sedation provider application a fee as established by the board not to exceed the following amounts:

- (1) for both a general anesthesia and ~~conscious~~ moderate sedation application, \$50 \$250;
- (2) for a general anesthesia application only, \$50 \$250; and



(3) for a ~~conscious~~ moderate sedation application only, ~~\$50-~~ \$250; and

(4) for a contracted sedation provider application, \$250.

Sec. 32. Minnesota Statutes 2008, section 150A.091, is amended by adding a subdivision to read:

Subd. 11a. **Certificate for anesthesia/sedation late fee.** Applications for renewal of a general anesthesia or moderate sedation certificate or a contracted sedation provider certificate received after the time specified in Minnesota Rules, part 3100.3600, subparts 9 and 9b, must be assessed a late fee equal to 50 percent of the biennial renewal fee for an anesthesia/sedation certificate.

Sec. 33. Minnesota Statutes 2008, section 150A.091, is amended by adding a subdivision to read:

Subd. 11b. **Recertification fee for anesthesia/sedation.** No dentist whose general anesthesia or moderate sedation certificate has been terminated by the board or voluntarily terminated by the dentist may become recertified until a fee has been submitted to the board not to exceed the amount of \$500.

Sec. 34. Minnesota Statutes 2008, section 150A.091, subdivision 12, is amended to read:

Subd. 12. **Duplicate certificate fee for anesthesia/sedation.** Each dentist shall submit with a request for issuance of a duplicate of the original general anesthesia or ~~conscious~~ moderate sedation certificate or contracted sedation provider certificate a fee in the amount of \$10.

Sec. 35. Minnesota Statutes 2008, section 150A.091, subdivision 14, is amended to read:

Subd. 14. **Affidavit of licensure.** Each licensee ~~or registrant~~ shall submit with a request for an affidavit of licensure a fee in the amount of \$10.

Sec. 36. Minnesota Statutes 2008, section 150A.091, subdivision 15, is amended to read:

Subd. 15. **Verification of licensure.** Each institution or corporation shall submit with a request for verification of a license ~~or registration~~ a fee in the amount of \$5 for each license ~~or registration~~ to be verified.

Sec. 37. Minnesota Statutes 2008, section 150A.10, subdivision 1a, is amended to read:

Subd. 1a. **Limited authorization for dental hygienists.** (a) Notwithstanding subdivision 1, a dental hygienist licensed under this chapter may be employed or retained by a health care facility, program, or nonprofit organization to perform dental hygiene services described under paragraph (b) without the patient first being examined by a licensed dentist if the dental hygienist:

(1) has been engaged in the active practice of clinical dental hygiene for not less than 2,400 hours in the past 18 months or a career total of 3,000 hours, including a minimum of 200 hours of clinical practice in two of the past three years;

(2) has entered into a collaborative agreement with a licensed dentist that designates authorization for the services provided by the dental hygienist;

(3) has documented participation in courses in infection control and medical emergencies within each continuing education cycle; and

(4) ~~maintains current certification in advanced or basic cardiac life support as recognized by the American Heart Association, the American Red Cross, or another agency that is equivalent to the CPR certification from completion of the American Heart Association or healthcare provider course, the American Red Cross professional rescuer course, or an equivalent entity.~~

(b) The dental hygiene services authorized to be performed by a dental hygienist under this subdivision are limited to:

- (1) oral health promotion and disease prevention education;
- (2) removal of deposits and stains from the surfaces of the teeth;
- (3) application of topical preventive or prophylactic agents, including fluoride varnishes and pit and fissure sealants;
- (4) polishing and smoothing restorations;
- (5) removal of marginal overhangs;
- (6) performance of preliminary charting;
- (7) taking of radiographs; and
- (8) performance of scaling and root planing.

The dental hygienist may administer injections of local anesthetic agents or nitrous oxide inhalation analgesia as specifically delegated in the collaborative agreement with a licensed dentist. The dentist need not first examine the patient or be present. If the patient is considered medically compromised, the collaborative dentist shall review the patient record, including the medical history, prior to the provision of these services. Collaborating dental hygienists may work with ~~unregistered unlicensed and registered licensed~~ dental assistants who may only perform duties for which ~~registration licensure~~ is not required. The performance of dental hygiene services in a health care facility, program, or nonprofit organization as authorized under this subdivision is limited to patients, students, and residents of the facility, program, or organization.

(c) A collaborating dentist must be licensed under this chapter and may enter into a collaborative agreement with no more than four dental hygienists unless otherwise authorized by the board. The board shall develop parameters and a process for obtaining authorization to collaborate with more than four dental hygienists. The collaborative agreement must include:

- (1) consideration for medically compromised patients and medical conditions for which a dental evaluation and treatment plan must occur prior to the provision of dental hygiene services;
- (2) age- and procedure-specific standard collaborative practice protocols, including recommended intervals for the performance of dental hygiene services and a period of time in which an examination by a dentist should occur;
- (3) copies of consent to treatment form provided to the patient by the dental hygienist;
- (4) specific protocols for the placement of pit and fissure sealants and requirements for follow-up care to assure the efficacy of the sealants after application; and
- (5) a procedure for creating and maintaining dental records for the patients that are treated by

the dental hygienist. This procedure must specify where these records are to be located.

The collaborative agreement must be signed and maintained by the dentist, the dental hygienist, and the facility, program, or organization; must be reviewed annually by the collaborating dentist and dental hygienist; and must be made available to the board upon request.

(d) Before performing any services authorized under this subdivision, a dental hygienist must provide the patient with a consent to treatment form which must include a statement advising the patient that the dental hygiene services provided are not a substitute for a dental examination by a licensed dentist. If the dental hygienist makes any referrals to the patient for further dental procedures, the dental hygienist must fill out a referral form and provide a copy of the form to the collaborating dentist.

(e) For the purposes of this subdivision, a "health care facility, program, or nonprofit organization" is limited to a hospital; nursing home; home health agency; group home serving the elderly, disabled, or juveniles; state-operated facility licensed by the commissioner of human services or the commissioner of corrections; and federal, state, or local public health facility, community clinic, tribal clinic, school authority, Head Start program, or nonprofit organization that serves individuals who are uninsured or who are Minnesota health care public program recipients.

(f) For purposes of this subdivision, a "collaborative agreement" means a written agreement with a licensed dentist who authorizes and accepts responsibility for the services performed by the dental hygienist. The services authorized under this subdivision and the collaborative agreement may be performed without the presence of a licensed dentist and may be performed at a location other than the usual place of practice of the dentist or dental hygienist and without a dentist's diagnosis and treatment plan, unless specified in the collaborative agreement.

Sec. 38. Minnesota Statutes 2008, section 150A.10, subdivision 2, is amended to read:

Subd. 2. **Dental assistants.** Every licensed dentist who uses the services of any unlicensed person for the purpose of assistance in the practice of dentistry shall be responsible for the acts of such unlicensed person while engaged in such assistance. Such dentist shall permit such unlicensed assistant to perform only those acts which are authorized to be delegated to unlicensed assistants by the Board of Dentistry. Such acts shall be performed under supervision of a licensed dentist. The board may permit differing levels of dental assistance based upon recognized educational standards, approved by the board, for the training of dental assistants. The board may also define by rule the scope of practice of ~~registered licensed and nonregistered unlicensed~~ dental assistants. The board by rule may require continuing education for differing levels of dental assistants, as a condition to their ~~registration~~ license or authority to perform their authorized duties. Any licensed dentist who shall permit such unlicensed assistant to perform any dental service other than that authorized by the board shall be deemed to be enabling an unlicensed person to practice dentistry, and commission of such an act by such unlicensed assistant shall constitute a violation of sections 150A.01 to 150A.12.

Sec. 39. Minnesota Statutes 2008, section 150A.10, subdivision 4, is amended to read:

Subd. 4. **Restorative procedures.** (a) Notwithstanding subdivisions 1, 1a, and 2, a licensed dental hygienist or a ~~registered licensed~~ licensed dental assistant may perform the following restorative procedures:

(1) place, contour, and adjust amalgam restorations;

- (2) place, contour, and adjust glass ionomer;
  - (3) adapt and cement stainless steel crowns; and
  - (4) place, contour, and adjust class I and class V supragingival composite restorations where the margins are entirely within the enamel.
- (b) The restorative procedures described in paragraph (a) may be performed only if:
- (1) the licensed dental hygienist or ~~the registered~~ licensed dental assistant has completed a board-approved course on the specific procedures;
  - (2) the board-approved course includes a component that sufficiently prepares the licensed dental hygienist or ~~registered~~ licensed dental assistant to adjust the occlusion on the newly placed restoration;
  - (3) a licensed dentist has authorized the procedure to be performed; and
  - (4) a licensed dentist is available in the clinic while the procedure is being performed.
- (c) The dental faculty who teaches the educators of the board-approved courses specified in paragraph (b) must have prior experience teaching these procedures in an accredited dental education program.

Sec. 40. Minnesota Statutes 2008, section 150A.12, is amended to read:

**150A.12 VIOLATION AND DEFENSES.**

Every person who violates any of the provisions of sections 150A.01 to 150A.12 for which no specific penalty is provided herein, shall be guilty of a gross misdemeanor; and, upon conviction, punished by a fine of not more than \$3,000 or by imprisonment in the county jail for not more than one year or by both such fine and imprisonment. In the prosecution of any person for violation of sections 150A.01 to 150A.12, it shall not be necessary to allege or prove lack of a valid license to practice dentistry ~~or~~ dental hygiene, or dental assisting, but such matter shall be a matter of defense to be established by the defendant.

Sec. 41. Minnesota Statutes 2008, section 150A.13, is amended to read:

**150A.13 REPORTING OBLIGATIONS.**

Subdivision 1. **Permission to report.** A person who has knowledge of a ~~registrant or~~ a licensee unable to practice with reasonable skill and safety by reason of illness, use of alcohol, drugs, chemicals, or any other materials, or as a result of any mental, physical, or psychological condition may report the ~~registrant or~~ licensee to the board.

Subd. 2. **Institutions.** A hospital, clinic, or other health care institution or organization located in this state shall report to the board any action taken by the agency, institution, or organization or any of its administrators or dental or other committees to revoke, suspend, restrict, or condition a ~~registrant's or~~ licensee's privilege to practice or treat patients or clients in the institution, or as part of the organization, any denial of privileges, or any other disciplinary action against a ~~registrant or~~ licensee described under subdivision 1. The institution or organization shall also report the resignation of any ~~registrants or~~ licensees prior to the conclusion of any disciplinary

action proceeding against a ~~registrant~~ or licensee described under subdivision 1.

Subd. 3. **Dental societies.** A state or local dental society or professional dental association shall report to the board any termination, revocation, or suspension of membership or any other disciplinary action taken against a ~~registrant~~ or licensee. If the society or association has received a complaint against a ~~registrant~~ or licensee described under subdivision 1, on which it has not taken any disciplinary action, the society or association shall report the complaint and the reason why it has not taken action on it or shall direct the complainant to the board. This subdivision does not apply to a society or association when it performs peer review functions as an agent of an outside entity, organization, or system.

Subd. 4. **Licensed professionals.** (a) A licensed ~~or registered~~ health professional shall report to the board personal knowledge of any conduct by any person who the licensed ~~or registered~~ health professional reasonably believes is a ~~registrant~~ or licensee described under subdivision 1.

(b) Notwithstanding paragraph (a), a licensed health professional shall report to the board knowledge of any actions which institutions must report under subdivision 2.

Subd. 5. **Insurers and other entities making liability payments.** (a) Four times each year as prescribed by the board, each insurer authorized to sell insurance described in section 60A.06, subdivision 1, clause (13), and providing professional liability insurance to ~~registrants~~ or licensees, shall submit to the board a report concerning the ~~registrants~~ and licensees against whom malpractice settlements or awards have been made to the plaintiff. The report must contain at least the following information:

- (1) the total number of malpractice settlements or awards made;
- (2) the date the malpractice settlements or awards were made;
- (3) the allegations contained in the claim or complaint leading to the settlements or awards made;
- (4) the dollar amount of each malpractice settlement or award;
- (5) the regular address of the practice of the ~~registrant~~ or licensee against whom an award was made or with whom a settlement was made; and
- (6) the name of the ~~registrant~~ or licensee against whom an award was made or with whom a settlement was made.

(b) A dental clinic, hospital, political subdivision, or other entity which makes professional liability insurance payments on behalf of ~~registrants~~ or licensees shall submit to the board a report concerning malpractice settlements or awards paid on behalf of ~~registrants~~ or licensees, and any settlements or awards paid by a clinic, hospital, political subdivision, or other entity on its own behalf because of care rendered by ~~registrants~~ or licensees. This requirement excludes forgiveness of bills. The report shall be made to the board within 30 days of payment of all or part of any settlement or award.

Subd. 6. **Courts.** The court administrator of district court or any other court of competent jurisdiction shall report to the board any judgment or other determination of the court that adjudges or includes a finding that a ~~registrant~~ or licensee is mentally ill, mentally incompetent, guilty of a felony, guilty of a violation of federal or state narcotics laws or controlled substances act, or guilty

of an abuse or fraud under Medicare or Medicaid; or that appoints a guardian of the ~~registrant or~~ licensee pursuant to sections 524.5-101 to 524.5-502, or commits a ~~registrant or~~ licensee pursuant to chapter 253B.

Subd. 7. **Self-reporting.** A ~~registrant or~~ licensee shall report to the board any personal action that would require that a report be filed by any person, health care facility, business, or organization pursuant to subdivisions 2 to 6.

Subd. 8. **Deadlines; forms.** Reports required by subdivisions 2 to 7 must be submitted not later than 30 days after the occurrence of the reportable event or transaction. The board may provide forms for the submission of reports required by this section, may require that reports be submitted on the forms provided, and may adopt rules necessary to assure prompt and accurate reporting.

Subd. 9. **Subpoenas.** The board may issue subpoenas for the production of any reports required by subdivisions 2 to 7 or any related documents."

Page 16, delete section 16 and insert:

"Sec. 57. **REPEALER.**

Minnesota Statutes 2008, sections 150A.09, subdivision 6; and 256B.5013, subdivisions 2, 3, and 5, are repealed."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 1760 was then recommended to pass.

**S.F. No. 1679**, which the committee recommends to pass, subject to the following motion:

The question was taken on the recommendation to pass S.F. No. 1679.

The roll was called, and there were yeas 43 and nays 21, as follows:

Those who voted in the affirmative were:

Anderson	Erickson Ropes	Lourey	Pogemiller	Skogen
Bakk	Fobbe	Lynch	Prettner Solon	Sparks
Berglin	Foley	Marty	Rummel	Stumpf
Betzold	Frederickson	Metzen	Saltzman	Tomassoni
Carlson	Higgins	Moua	Saxhaug	Torres Ray
Chaudhary	Kelash	Murphy	Scheid	Vickerman
Clark	Kubly	Olseen	Sheran	Wiger
Dahle	Langseth	Olson, M.	Sieben	
Dibble	Latz	Pappas	Skoe	

Those who voted in the negative were:

Bonoff	Gimse	Koch	Ortman	Vandev eer
Day	Hann	Koering	Pariseau	
Dille	Ingebrigtsen	Limmer	Robling	
Doll	Johnson	Michel	Rosen	
Gerlach	Jungbauer	Olson, G.	Senjem	

The motion prevailed. So S.F. No. 1679 was recommended to pass.

**S.F. No. 776**, which the committee recommends to pass with the following amendment offered by Senator Latz:

Page 3, line 16, strike "created" and insert "included as part of the construction contract"

Page 3, line 17, delete "as part of the construction contract"

Page 3, lines 23 and 25, delete "explicit"

The motion prevailed. So the amendment was adopted.

**S.F. No. 470**, which the committee recommends to pass with the following amendment offered by Senator Rummel:

Page 1, line 9, after "breach" insert "in all cases where the breach is discovered within ten years after the warranty date" and reinstate the stricken period

Page 1, line 12, before the comma, insert "Where the breach is discovered more than ten years after the warranty date, these actions must be brought within one year after the discovery of the breach" and strike "under"

Page 1, line 13, strike "section 327A.05" and strike "effective"

The motion prevailed. So the amendment was adopted.

**S.F. No. 6**, which the committee recommends to pass with the following amendments offered by Senator Latz:

Page 1, lines 9 and 10, reinstate the stricken language

Page 1, delete line 11 and insert "~~(a)~~ (1)(i) the amount necessary to remedy the defect or breach; or"

Page 1, delete line 12 and insert "~~(b)~~ (ii) the difference between the value of the dwelling without the defect and the value"

Page 1, line 13, reinstate the stricken "of the dwelling with the defect" and after the stricken period, insert "; and"

Page 1, after line 13, insert:

"(2) reasonable costs for short-term housing made necessary as a result of the breach, not to exceed the current maximum per diem rate set by the United States General Services Administration that applies to the location of the property."

Page 1, line 17, reinstate the stricken language, and before the period, insert ", plus costs referenced in subdivision 1, clause (2)"

The motion prevailed. So the amendment was adopted.

Senator Latz moved to amend S.F. No. 6 as follows:

Page 1, after line 19, insert:

"Sec. 2. [327A.09] DOUBLE RECOVERY PROHIBITED.

A person who recovers damages under sections 327A.01 to 327A.08 may not recover the same costs or damages under any other law. A person who recovers damages under any other law may not recover for the same costs or damages under sections 327A.01 to 327A.08."

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

The question was taken on the recommendation to pass S.F. No. 6.

The roll was called, and there were yeas 34 and nays 29, as follows:

Those who voted in the affirmative were:

Anderson	Dahle	Latz	Olson, M.	Scheid
Bakk	Dibble	Lourey	Pappas	Sieben
Betzold	Erickson Ropes	Lynch	Pogemiller	Skoe
Bonoff	Fobbe	Marty	Prettner Solon	Skogen
Carlson	Foley	Moua	Rummel	Torres Ray
Chaudhary	Higgins	Murphy	Saltzman	Wiger
Clark	Kelash	Olseen	Saxhaug	

Those who voted in the negative were:

Day	Gimse	Koering	Olson, G.	Sheran
Dille	Hann	Kubly	Ortman	Sparks
Doll	Ingebrigtsen	Langseth	Pariseau	Stumpf
Fischbach	Johnson	Limmer	Robling	Tomassoni
Frederickson	Jungbauer	Metzen	Rosen	Vandever
Gerlach	Koch	Michel	Senjem	

The motion prevailed. So S.F. No. 6 was recommended to pass.

On motion of Senator Pogemiller, the report of the Committee of the Whole, as kept by the Secretary, was adopted.

### MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Orders of Business of Messages From the House and First Reading of House Bills.

### MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1988:

**H.F. No. 1988:** A bill for an act relating to human services; requiring managed care plans and county-based purchasing plans to report provider payment rate data; requiring the commissioner to analyze the plans' data; requiring a report; amending Minnesota Statutes 2008, section 256B.69, subdivision 9b.

The House respectfully requests that a Conference Committee of 5 members be appointed thereon.



Huntley, Thissen, Clark, Hosch and Abeler have been appointed as such committee on the part of the House.

House File No. 1988 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 11, 2009

Senator Pogemiller, for Senator Berglin, moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1988, and that a Conference Committee of 5 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 928:

**H.F. No. 928:** A bill for an act relating to transportation; modifying various provisions related to transportation or public safety; prohibiting certain acts; amending Minnesota Statutes 2008, sections 161.14, subdivision 62, as added, by adding subdivisions; 168.33, subdivision 2; 169.011, by adding a subdivision; 169.045; 169.15; 169.306; 169.71, subdivision 1; 171.12, subdivision 6; 174.86, subdivision 5; 221.012, subdivision 38, by adding a subdivision; 221.0252, by adding a subdivision; 473.167, subdivision 2a; Laws 2008, chapter 287, article 1, section 122; proposing coding for new law in Minnesota Statutes, chapters 160; 171; 174; 299C.

The House respectfully requests that a Conference Committee of 5 members be appointed thereon.

Hornstein, Swails, Morrow, Champion and Urdahl have been appointed as such committee on the part of the House.

House File No. 928 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 11, 2009

Senator Murphy moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 928, and that a Conference Committee of 5 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1231:

**H.F. No. 1231:** A bill for an act relating to state government; appropriating money from constitutionally dedicated funds and providing for policy and governance of outdoor heritage, clean water, parks and trails, and arts and cultural heritage purposes; establishing and modifying grants and funding programs; providing for advisory groups; providing appointments; requiring reports; requiring rulemaking; amending Minnesota Statutes 2008, sections 3.303, by adding a subdivision; 3.971, by adding a subdivision; 17.117, subdivision 11a; 18G.11, by adding a subdivision; 84.02, by adding subdivisions; 85.53; 97A.056, subdivisions 2, 3, 6, 7, by adding subdivisions; 103F.515, subdivisions 2, 4; 114D.50; 116G.15; 116P.05, subdivision 2; 129D.17; 477A.12, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 3; 84; 84C; 85; 116; 129D; 138; 477A.

The House respectfully requests that a Conference Committee of 5 members be appointed thereon.

Murphy, M.; Wagenius; Morgan; Lillie and Davids have been appointed as such committee on the part of the House.

House File No. 1231 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 11, 2009

Senator Pogemiller, for Senator Cohen, moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1231, and that a Conference Committee of 5 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 211, 412, 330, 362, 239, 420, 1298 and 925.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 11, 2009

### FIRST READING OF HOUSE BILLS

The following bills were read the first time.

**H.F. No. 211:** A bill for an act relating to civil actions; statutory housing warranties; regulating recovery for breaches; amending Minnesota Statutes 2008, section 327A.05.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 170, now on General Orders.

**H.F. No. 412:** A bill for an act relating to real estate; adjusting the statute of repose for homeowner warranty claims; amending Minnesota Statutes 2008, section 541.051, subdivision 4.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 470, now on the Calendar.

**H.F. No. 330:** A bill for an act relating to real estate; providing homeowners with a longer period within which to notify contractors of construction defects; amending Minnesota Statutes 2008, section 327A.03.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 264, now on General Orders.

**H.F. No. 362:** A bill for an act relating to real estate; eliminating a requirement that homeowner's notice to building contractor of construction defect be in writing; amending Minnesota Statutes 2008, sections 327A.02, subdivision 4; 327A.03.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 362, now on General Orders.

**H.F. No. 239:** A bill for an act relating to real estate; permitting homeowners to recover certain damages incurred due to faulty construction; amending Minnesota Statutes 2008, section 327A.05; proposing coding for new law in Minnesota Statutes, chapter 327A.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 6, now on the Calendar.

**H.F. No. 420:** A bill for an act relating to real estate; requiring that existing statutory implied residential construction warranties be made as express warranties and be provided to the buyer in writing; prohibiting waivers of the warranty; amending Minnesota Statutes 2008, sections 327A.04; 327A.06; 327A.07; 327A.08.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 776, now on the Calendar.

**H.F. No. 925:** A bill for an act relating to employment; expanding the official measure of unemployment; requiring a report; directing use of certain appropriations; amending Minnesota Statutes 2008, section 116J.401, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 116J.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1368, now on General Orders.

**H.F. No. 1298:** A bill for an act relating to public finance; providing terms and conditions relating to issuance of obligations and financing of public improvements; modifying restrictions on mail elections; providing tax credit and interest subsidy bonds; providing emergency debt certificates; authorizing the issuance of local bonds; authorizing the cities of Chisago City and Lindstrom to establish a joint venture, issue debt for use outside of the jurisdiction, and share revenues; providing for the additional financing of metropolitan area transit and paratransit capital expenditures; authorizing the issuance of certain obligations; authorizing counties to make joint purchases of energy and energy generation projects; authorizing Mountain Iron economic development and Winona County economic authorities to form limited liability companies; eliminating the maximum limit on state agricultural society's bonded debt and the sunset on the authority to issue bonds and modifying its authorized investments of debt service funds; extending

sunset for special service and housing improvement districts; modifying authority of municipalities to issue bonds for certain postemployment benefits; appropriating money; amending Minnesota Statutes 2008, sections 37.31, subdivisions 1, 7; 37.33, subdivision 3; 37.34; 126C.55, subdivision 4; 204B.46; 275.065, subdivision 6; 360.036, subdivision 2; 366.095, subdivision 1; 373.01, subdivision 3; 373.40, subdivision 1; 373.47, subdivision 1; 373.48, subdivision 1, by adding a subdivision; 383B.117, subdivision 2; 410.32; 412.301; 428A.03, subdivision 1; 428A.08; 428A.09; 428A.10; 428A.101; 428A.21; 446A.086, by adding a subdivision; 469.005, subdivision 1; 469.034, subdivision 2; 469.153, subdivision 2; 471.191, subdivision 1; 473.1293, by adding a subdivision; 473.39, by adding a subdivision; 474A.02, subdivisions 2, 14; 475.51, subdivision 4; 475.52, subdivision 6; 475.58, subdivision 1; 475.67, subdivision 8; Laws 1971, chapter 773, sections 1, subdivision 2, as amended; 4, as amended; Laws 2008, chapter 366, article 6, section 46, subdivisions 1, 2; proposing coding for new law in Minnesota Statutes, chapters 16A; 475; repealing Minnesota Statutes 2008, section 37.31, subdivision 8; Laws 1998, chapter 407, article 8, section 12, subdivision 4.

Senator Pogemiller moved that H.F. No. 1298 be laid on the table. The motion prevailed.

### **RECESS**

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

### **APPOINTMENTS**

Senator Pogemiller from the Subcommittee on Conference Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

H.F. No. 928: Senators Murphy, Dibble, Day, Doll and Sieben.

H.F. No. 1988: Senators Berglin, Lourey, Sheran, Rosen and Prettnner Solon.

H.F. No. 1231: Senators Cohen, Anderson, Saxhaug, Chaudhary and Frederickson.

Senator Pogemiller moved that the foregoing appointments be approved. The motion prevailed.

### **CONFERENCE COMMITTEE EXCUSED**

Pursuant to Rule 12, Senator Bakk moved that the following members be excused for a Conference Committee on H.F. No. 2323 at 9:30 p.m.:

Senators Bakk, Skoe, Dibble, Moua and Johnson. The motion prevailed.

### **CONFERENCE COMMITTEE EXCUSED**

Pursuant to Rule 12, Senator Lynch moved that the following members be excused for a Conference Committee on S.F. No. 2083 at 10:00 p.m.:

Senators Pappas, Robling, Lynch, Latz and Erickson Ropes. The motion prevailed.

### **MEMBERS EXCUSED**

Senator Murphy was excused from the Session of today from 3:50 to 7:15 p.m. Senator Michel was excused from the Session of today from 6:30 to 7:30 p.m. Senator Fischbach was excused from the Session of today from 6:30 to 9:05 p.m. Senator Metzen was excused from the Session of today from 7:20 to 8:10 p.m. Senator Rest was excused from the Session of today at 7:15 p.m. Senator Cohen was excused from the Session of today at 8:15 p.m. Senator Berglin was excused from the Session of today at 9:30 p.m.

### **ADJOURNMENT**

Senator Pogemiller moved that the Senate do now adjourn until 12:00 noon, Tuesday, May 12, 2009. The motion prevailed.

Peter S. Wattson, Secretary of the Senate (Legislative)



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